

Applicant Details

First Name	Angelika
Middle Initial	R
Last Name	Anderson
Citizenship Status	U. S. Citizen
Email Address	aangelik@tamu.edu
Address	<div> Address Street 1114 Holbrook Drive City Garland State/Territory Texas Zip 75040 Country United States </div>
Contact Phone Number	2696352751

Applicant Education

BA/BS From	University of Michigan-Ann Arbor
Date of BA/BS	May 2016
JD/LLB From	Texas A&M University School of Law
	http://law.tamu.edu
Date of JD/LLB	May 6, 2023
Class Rank	15%
Law Review/Journal	Yes
Journal(s)	Texas A&M Law Review
Moot Court Experience	No

Bar Admission**Prior Judicial Experience**

Judicial Internships/Externships **Yes**

Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Recommenders

Alton, Stephen
salton@law.tamu.edu
(817) 212-4115

Burge, Mark
markburge@law.tamu.edu
817-212-3959

Nowell, Erin
Erin.Nowell@5th.txcourts.gov

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Angelika R. Anderson

1114 Holbrook Drive, Garland, Texas 75040

Phone: (269) 635-2751 | Email: angelika.anderson@gmail.com | www.linkedin.com/in/angelika-anderson

January 25, 2023

The Honorable Irma C. Ramirez
United States District Court, Northern District of Texas
Earle Cabell Federal Building
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez:

I am a third-year law student at Texas A&M University School of Law where I am a full-tuition scholarship recipient and the Symposia Editor for the *Texas A&M Law Review*. I am writing to express my interest in a clerkship in your chambers for the 2023–2025 term. I am particularly interested in this clerkship because I intend to stay in the Dallas metroplex with my family after graduation.

Enclosed you will find my resume, transcript, and writing sample. The writing sample is a mock judicial opinion I drafted in May 2022 that considers the constitutionality of the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021. Lastly, letters of recommendation from Professor Stephen Alton, Professor Mark Burge, and the Honorable Erin Nowell of the Fifth District Court of Appeals of Texas are attached.

Thank you for considering my application. I look forward to hearing from you.

Respectfully,

Angelika Anderson

Angelika Anderson

Angelika R. Anderson

1114 Holbrook Drive, Garland, Texas 75040

Phone: (269) 635-2751 | Email: angelika.anderson@gmail.com | www.linkedin.com/in/angelika-anderson

EDUCATION

Texas A&M University School of Law
J.D. Candidate | GPA 3.71, Top 10-15%

Fort Worth, Texas
Anticipated Spring 2023

- Executive Board of Editors, *Texas A&M Law Review* (Summer 2022—Spring 2023)
- Publication: Comment, *My Body, My Choice: Should Physician-Assisted Suicide Be Legalized in the United States for Individuals with Chronic Mental Illness?* (Anticipated in *Texas A&M Law Review*, Volume 10)
- Full-tuition merit scholarship recipient
- Region 11 Champion, National Trial Competition (Spring 2022)
- Negotiation Champion, Securities Dispute Resolution Triathlon (Fall 2022)
- Public Interest Law Fellow (Fall 2021—Spring 2022)
- Speakers' Bureau: Vice President (Spring 2021—Fall 2021)

University of Michigan
B.A., Psychology | GPA 3.75, Top 25%

Ann Arbor, Michigan
Spring 2016

- Recipient of a national scholarship for students with critical financial need through the Horatio Alger Association
- Provided free services to low-income families at SOS Community Services, AccentCare Hospice, and 826 Michigan

EXPERIENCE

Texas A&M Trademark and Copyright Clinic
State Bar Qualified Law Student

Fort Worth, Texas
Fall 2022—Present

Provide pro bono legal services to low-income clients, including drafting contracts and advising on intellectual property law.

United States Department of Justice, Environment and Natural Resources Division
Law Clerk

Washington, D.C.
Summer 2022

Conducted legal research regarding federal environmental issues and drafted a memorandum, preliminary injunction, complaint, and notice of lodging; receiving a median score of "excellent" on work-product evaluations.

City of Dallas Attorney's Office
Legal Intern

Dallas, Texas
Summer 2021

Analyzed legal precedent and wrote advisory communications for the city's employment, fair housing, and litigation sections regarding such topics as housing discrimination, real estate title, and marijuana law.

Fifth District Court of Appeals of Texas
Judicial Intern to the Honorable Erin Nowell

Dallas, Texas
Summer 2021

Reviewed court records, researched precedent, and made judicial recommendations regarding such appealable error as ineffective assistance of counsel, abuse of discretion, and improper service of writ for garnishment proceedings.

Niles District Library
Adult Services Team Member

Niles, Michigan
Summer 2019—Spring 2020

Served low-income community members by teaching computer competency skills, including how to draft a resume.

EDUStaff
Long-Term Substitute Teacher

Niles & Buchanan, Michigan
Fall 2017—Spring 2020

Created and managed lesson plans, adapted to changing priorities, and collaborated with administration and staff.

PROFESSIONAL CREDENTIALS

Certificate of Management, University of Texas at Dallas (Spring 2017)
Spanish, Intermediate Proficiency

INTERESTS AND ACHIEVEMENTS

Gardening; growing roses, strawberries, sunflowers, tomatoes, tulips, and wildflowers
Writing; completed a novel, three screenplays, and two competition-winning short stories
Travel; visited 48 states, 16 national parks, and 10 foreign nations

TEXAS A&M UNIVERSITY
College Station, Texas 77843

UNOFFICIAL ACADEMIC RECORD

25-JAN-2023

Name: Angelika R. Anderson (630008299,T02547152)**CURRICULUM INFORMATION**

Current Program: Juris Doctor
College: School of Law
Major: Law
Department: School of Law

CREDENTIAL(S) AWARDED**INSTITUTION CREDIT****Fall 2020 - College Station**

Dean's List

School of Law - Law

Subj	No.	Course Title	Cred	Grade	Pts	R
Semester						
LAW	7001	ANALYSIS, RES. & WRITING	3.000	A-	11.01	
LAW	7005	CIVIL PROCEDURE	4.000	A-	14.68	
LAW	7042	TORTS	4.000	B+	13.32	
LAW	7110	PROFESSIONAL IDENTITY	0.500	P	0.00	
LAW	7418	LEGISLATION AND REGULATION	3.000	A-	11.01	

Term Totals(Professional Law)

Ehrs: 14.500 GPA-Hrs: 14.000 Qpts: 50.02 GPA: 3.57

Spring 2021 - College Station

Dean's List

School of Law - Law

Subj	No.	Course Title	Cred	Grade	Pts	R
School of Law Winter Session						
LAW	7007	ADR SURVEY	1.000	B+	3.33	
Semester						
LAW	7002	ANALYSIS RES & WRIT II	3.000	A	12.00	
LAW	7017	CONTRACTS	4.000	B+	13.32	
LAW	7021	CRIMINAL LAW	3.000	A	12.00	
LAW	7032	PROPERTY	4.000	A	16.00	
LAW	7110	PROFESSIONAL IDENTITY	0.500	P	0.00	

Term Totals(Professional Law)

Ehrs: 15.500 GPA-Hrs: 15.000 Qpts: 56.65 GPA: 3.78

Fall 2021 - College Station

Dean's List

School of Law - Law

Subj	No.	Course Title	Cred	Grade	Pts	R
School of Law Full Semester						
LAW	7076	WILLS AND ESTATES	3.000	B+	9.99	
LAW	7080	EVIDENCE	4.000	B+	13.32	
Semester						
LAW	7199	TRIAL ADVOCACY FOR MOCK TRIAL	3.000	A-	11.01	
LAW	7091	PROFESSIONAL RESP.	3.000	A	12.00	
LAW	7930	LAW REVIEW	1.000	P	0.00	
LAW	7960S	MOCK TRIAL COMPETITION	2.000	P	0.00	

Term Totals(Professional Law)

Ehrs: 16.000 GPA-Hrs: 13.000 Qpts: 46.32 GPA: 3.56

Spring 2022 - College Station

Dean's List

School of Law - Law

Subj	No.	Course Title	Cred	Grade	Pts	R
School of Law Winter Session						
LAW	7887S	DEPOSITION SKILLS WORKSHOP	1.000	P	0.00	
School of Law Full Semester						
LAW	7010	CONSTITUTIONAL LAW	4.000	B+	13.32	
LAW	7174	TRUSTS AND FIDUCIARY RESPON	2.000	A	8.00	
LAW	7205	ART LAW	2.000	A-	7.34	
Semester						
LAW	7704	GUARDIANSHIP PRACTICUM	1.000	A-	3.67	
LAW	7894	LARW III ENVIRON LIT DRAFT	2.000	A-	7.34	
LAW	7930	LAW REVIEW	1.000	P	0.00	
LAW	7960S	MOCK TRIAL COMPETITION	2.000	P	0.00	

Term Totals(Professional Law)

Ehrs: 15.000 GPA-Hrs: 11.000 Qpts: 39.67 GPA: 3.61

Fall 2022 - College Station

School of Law - Law

Subj	No.	Course Title	Cred	Grade	Pts	R
School of Law Full Semester						
LAW	7113	ADMINISTRATIVE LAW	3.000	A+	12.03	
Semester						
LAW	7890	COURTHOUSE PERSPECTIVES	1.000	A	4.00	
LAW	7900	SPTP:DISPUTE RES SKILLS CX	3.000	A	12.00	
LAW	7793	LARW III: PUB POLICY DRAFTING	2.000	A	8.00	
LAW	7868	TRADEMARK & COPYRIGHT CLINIC	4.000	A+	16.04	
LAW	7931	LAW REVIEW BOARD	2.000	P	0.00	
LAW	7957S	ADR COMPETITION	1.000	P	0.00	

Term Totals(Professional Law)

Ehrs: 16.000 GPA-Hrs: 13.000 Qpts: 52.07 GPA: 4.01

TEXAS A&M UNIVERSITY
College Station, Texas 77843

UNOFFICIAL ACADEMIC RECORD

25-JAN-2023

Name: Angelika R. Anderson (630008299,T02547152)

COURSES IN PROGRESS

School of Law - Law (202311)

Subj	No.	Course Title	Cred	Grade	Pts	R
School of Law Full Semester						
LAW	7268	ENTERTAINMENT LAW	2.000			
LAW	7458	PREPARING FOR THE BAR EXAM	3.000			
Semester						
LAW	7383S	THE BUSINESS NEGOTIATOR	3.000			
LAW	7900	SPTP: CONT CLIN: TRADEMARK	2.000			
LAW	7931	LAW REVIEW BOARD	2.000			
LAW	7957S	ADR COMPETITION	1.000			

TRANSCRIPT TOTALS

Professional Law Totals

	Earned Hours	GPA Hours	Points	GPA
TOTAL INSTITUTION	77.000	66.000	244.73	3.71
TOTAL TRANSFER	0.000	0.000	0.00	0.00
OVERALL	77.000	66.000	244.73	3.71

January 25, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

RE: Ms. Angelika Anderson.

I write this letter in recommendation of the application of my former student, Ms. Angelika Anderson, to be your judicial clerk. I have known Ms. Anderson for approximately one year; she was a student in my Property class in the spring of 2021 and a student in my Wills & Estates class in the fall of 2021.

Ms. Anderson was an excellent student in my Property class, where she received one of the highest grades (an A) that I awarded in the class last year. As you can see from her grade, her final examination was excellent, and this reflected her mastery of the difficult course material. In addition, Ms. Anderson was one of the best participants in the class discussion. Her answers to my in-class questions, as well as her questions to me, reflected good insight and analytical ability. I have found her attention to the details and nuances of the law to be remarkable.

As her resume reveals, Ms. Anderson is an excellent participant in the life of our law school. As well as being the incoming symposium editor of our law school's Law Review, she is the recipient of several awards and scholarships. In addition, she is the regional winner of the National (Mock) Trial Competition and is one of our law school's public-interest law fellows.

I believe that Ms. Anderson would make a very good law clerk, based on her performance in my classes, her writing and editing experience on the Law Review, and her mock trial experience. Therefore, I can and do recommend Ms. Anderson to you for your consideration as your law clerk.

If I may be of further service in connection with this matter, please feel free to contact me.

Very truly yours,
Stephen R. Alton
Executive Professor of Law
Texas A&M University School of Law

Stephen Alton - salton@law.tamu.edu - (817) 212-4115

Stephen Alton - salton@law.tamu.edu - (817) 212-4115

January 25, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

Angelika Anderson has the high academic performance, writing and analytical skills, character, and commitment to excel in a judicial clerkship with your court. I have the opportunity to observe many students as a tenured professor at Texas A&M University School of Law teaching contracts, commercial law, and legal skills courses, but I am pleased to give Angelika my highest commendation to you following my substantial opportunity to teach her for two semesters during the 2020-21 academic year in a section of our core first-year course, Legal Analysis, Research and Writing (or "LARW").

LARW sections are smaller than those for other first year courses, so my opportunity to observe and engage with my students is considerable. Angelika, would be memorable even in one of my larger classes. Angelika is an exceptional legal writer and legal researcher, and she excelled even among a particularly bright and engaged student cohort on problems of increasing difficulty. Without exception, her work product was among the best in my class. Her continued high performance as a 2L has led to Angelika being named Symposium Editor for the Texas A&M Law Review, having her student note (My Body, My Choice: Should Physician-Assisted Suicide Be Legalized in the United State for Individuals with Chronic Mental Illness?) selected for publication in the law review, and winning mock trial and ADR competitions.

Angelika's accomplishments are a consistent reflection of her drive, impeccable work ethic, and insistence upon excellence in her every task. Even in the COVID-impaired 2020-21 academic year, Angelika found ways to stand out as a leader in classroom discussion, in building social connections in a distanced world, and in rising to become Vice President of the Texas A&M Speaker's Bureau (a volunteer organization akin to Toastmasters in building public-facing leaders). She does not relent until her work is right and is at the highest possible level.

Angelika Anderson will reflect most favorably on your court, both in public demeanor and as a colleague to the rest of your staff. She understands fully that a job with the court carries responsibilities beyond the immediate working environment. Accordingly, I can and do also commend Angelika to you based on my personal interactions with her and observation of her character. As a law clerk reflecting on the judicial branch she will, I am confident, conduct herself at all times with the highest standards of ethics, integrity, and professionalism.

If I can provide you any other information and assistance related to Angelika Anderson, please do not hesitate to contact me, as I am always delighted to discuss an exceptional student. My email address is markburge@law.tamu.edu, and my law school office phone number is 817.212.3959.

Best regards,

/s/ Mark Edwin Burge
Professor of Law
Texas A&M University School of Law

Mark Burge - markburge@law.tamu.edu - 817-212-3959

S

Court of Appeals
Fifth District of Texas at Dallas

ERIN NOWELL
JUSTICE

600 COMMERCE STREET, SUITE 200
DALLAS, TEXAS 75202

TELEPHONE - (214) 712-3413
FACSIMILE - (214) 745-1083

To Whom It May Concern:

It is an honor to recommend Angelika Anderson for a federal clerkship. Ms. Anderson served as a full-time intern at the Fifth District Court of Appeals at Dallas during the summer of 2021. Ms. Anderson worked under my direct supervision for a six-week period during her internship, and I therefore had ample opportunity to observe her legal analysis, work ethic, and general demeanor.

During her internship, Ms. Anderson was assigned a variety of research, drafting, and legal analysis projects. By way of example, she was tasked with reviewing the briefing in a three-issue criminal appeal, conducting a detailed legal analysis, and submitting a first draft of the opinion with her recommendations for resolution. Her research was done thoroughly and efficiently. I was particularly impressed by the questions posed by Ms. Anderson, as a first-year law student, as they clearly indicated a depth of understanding of the law and the nuance that must often be applied in appellate review. Ms. Anderson produced a well-written, well-structured, and well-reasoned draft opinion. Accordingly, the resulting opinion consisted of much of Ms. Anderson's beautifully articulated analysis.

Ms. Anderson proved to be an intelligent, highly conscientious, and effective intern. She had no difficulty grasping relatively complex issues and understanding the difference in appellate review versus the type of decision-making that occurs in the trial court. Because of this, Ms. Anderson was an extremely valuable resource, and I enjoyed our informed discussions debating the proper judgment.

Ms. Anderson is utterly dependable, hardworking, and welcoming of feedback. Her inquisitive nature ensures that she is always learning and growing as young lawyer. Any judge would be lucky to have Ms. Anderson clerking in their chambers. I have the utmost confidence that she'll do an excellent job and make the most of the experience.

Sincerely yours,

/s/ Erin A. Nowell

Hon. Erin A. Nowell
Justice, 5th District Court of Appeals at Dallas

Angelika R. Anderson

1114 Holbrook Drive, Garland, Texas 75040

Phone: (269) 635-2751 | Email: angelika.anderson@gmail.com | www.linkedin.com/in/angelika-anderson

January 25, 2023

Writing Sample Cover Page

I wrote the enclosed judicial opinion in May of 2022 to apply for a federal clerkship. The opinion examines whether the power vested in Congress to regulate commerce among the several states includes the power to prohibit the arbitration of sexual harassment claims under the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021. The opinion reflects my own analysis of federal law using the Lexis+ research platform and is solely my work product. I did not receive feedback or assistance from any third parties in the drafting or editing of this writing sample.

Thank you for your time and consideration.

Respectfully,

Angelika Anderson

Angelika Anderson

United States District Court
Middle District of Texas

Dominick Johnson
v.
Install Industry, Inc.
No. 8:15-CV-01234-Z
January 25, 2023

The question presented in this case is whether the power vested in Congress to regulate commerce among the several states includes the power to prohibit the arbitration of sexual harassment claims under the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021.

I. BACKGROUND AND PROCEDURAL HISTORY

Plaintiff Dominick Johnson (“Johnson”) is an employee of Defendant Install Industry, Inc. (“Install Industry”). Install Industry is a security system installation company doing business in Horseshoe County, Texas. Johnson began his employment with Install Industry in 2021. During Johnson’s onboarding, he signed an employment agreement containing a predispute arbitration clause (the “Arbitration Clause”). The Arbitration Clause read, “Employee and Company agree that all legal claims arising between the parties relating to Employee’s employment or separation with Company shall be determined exclusively by final and binding arbitration.”

On March 12, 2022, while Johnson was attending a company meeting, the owner of Install Industry, Marie Smith (“Smith”), touched a portion of Johnson’s chest without permission. On March 16, during a private conversation in the office, Smith asked Johnson about his sexuality and his relationship status. Then, on March 17, Smith told Johnson that she had not had sexual relations since the outbreak of COVID-19. Smith also told Johnson she assumed Johnson had likely had sexual relations because of his handsome appearance. Johnson subsequently filed this civil action against Install Industry for sexual harassment.

Though Johnson signed the Arbitration Clause requiring such disputes be arbitrated, Johnson argues he does not have to arbitrate his claim because of the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (“the Act”), which prohibits forced arbitration of such claims. Conversely, Install Industry argues the Act is an unconstitutional exercise of Congress’s commerce power and is therefore invalid. As such, Install Industry argues Johnson must arbitrate his claim and has accordingly filed motions to stay proceedings and compel arbitration.

The question before this Court is one of first impression: was passage of the Act preventing the forced arbitration of sexual harassment claims a constitutional exercise of Congress’s power to regulate interstate commerce? After reviewing Install Industry’s arguments, this Court finds the Act is an unconstitutional exercise of Congress’s commerce power as applied to this dispute and recommends both motions should be GRANTED.

II. LEGAL STANDARD

A claim for sexual harassment is enforced under Title VII of the Civil Rights Act of 1964. *See, e.g., Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57 (1986). Specifically, Title VII forbids actions taken on the basis of sex that “discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment.” 42 U.S.C. § 2000e-2(a)(1). Historically, an employer could require that employees arbitrate sexual harassment claims by placing predispute arbitration clauses in employment contracts like the one signed by Johnson. *See Rojas v. TK Commc’ns, Inc.*, 87 F.3d 745 (5th Cir. 1996); Federal Arbitration Act of 1925, Pub. L. No. 68-401, 43 Stat. 883 (codified as amended at 9 U.S.C. § 2). By passing the Act, however, Congress prevented such forced arbitration. The Act states, “[A]t the election of the person alleging conduct constituting a sexual harassment dispute . . . no predispute arbitration agreement . . . shall be valid or enforceable with respect to a case which . . . relates to . . . the sexual harassment dispute.” 9 U.S.C. § 402(a).

III. ANALYSIS

Install Industry makes two arguments as to why Johnson may not adjudicate his claim under the Act. First, the Act is unconstitutional generally because it is not limited to interstate commerce. Second, the Act is unconstitutional as applied to this case because it regulates solely intrastate activity.

A. The Act Generally

First, Install Industry argues that the Act is unconstitutional because it does not regulate interstate commerce as is required under the Constitution. Install Industry contends that when read alone, the plain text of the Act regulates *all* arbitration agreements, not just those that involve interstate commerce. Install Industry further adds that had the court intended to limit the application of the Act to arbitration agreements involving interstate commerce, it would have directly so said. For example, Install Industry argues that instead of writing in the Act that “no predispute arbitration agreement” shall be valid, Congress would have written that “no predispute arbitration agreement *involving interstate commerce*” shall be valid. 9 U.S.C. § 402(a). Since Congress did not include such language, Install Industry argues Congress acted outside its commerce power by failing to limit the Act’s application to only those arbitration agreements involving interstate commerce.

This Court agrees that when read in isolation, the plain text of the Act does not limit the Act’s application to arbitration agreements involving interstate commerce. This Court finds, however, that the Act should not be read in isolation but should instead be read *in pari materia*. Specifically, Congress intended the Act to be read together with the FAA when it included a modification of the FAA within the language of the Act. H.R. 4445, 117th Cong. (2d Sess. 2022). Given that it is the duty of this court to “give effect to the unambiguously expressed intent of Congress,” this Court will read both acts *in pari materia*. *Chevron U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 842–43 (1984). *See also BNSF Ry. Co. v. United States*, 775 F.3d 743, 751 (5th Cir. 2015) (listing traditional tools of statutory interpretation as a means for evaluating the intent of Congress).

When reading the FAA, it is clear that only arbitration agreements “evidencing a transaction involving commerce,” where “commerce” means interstate commerce, are enforceable. 9 U.S.C. §§ 1–2. If the FAA is limited to arbitration agreements involving interstate commerce and the Act is read together with the FAA, the Act should also be limited to arbitration agreements involving interstate commerce.

Because the Act is limited to arbitration agreements involving interstate commerce, its passage was a constitutional exercise of Congress’s commerce power. Install Industry’s first argument fails.

B. The Act as Applied

Install Industry next argues that the Act as applied to the employment contract at issue violates the Commerce Clause because it regulates purely intrastate activity. This Court agrees.

An employment contract involving a local employer, a local employee, and the provision of services to local customers does not itself involve interstate commerce. In order for the Act to be constitutional as applied to Install Industry, the effects of sexual harassment within purely intrastate employment relationships must substantially affect interstate commerce when considered in the aggregate.

There are four considerations for deciding whether intrastate activity substantially affects interstate commerce in the aggregate. *United States v. Ho*, 311 F.3d 589, 599 (5th Cir. 2002) (citing *United States v. Lopez*, 514 U.S. 549, 558 (1995)). First, whether the regulated intrastate activity is economic or commercial in nature. *Id.* at 599. Second, whether there is a jurisdictional element in the challenged statute that limits its application to intrastate activities with an explicit connection to or effect on interstate commerce. *Id.* at 600. Third, whether there are congressional findings regarding the regulated intrastate activity’s substantial effects on interstate commerce. *Id.* Fourth, whether the connection between the regulated intrastate activity and the substantial effect on interstate commerce is too attenuated; namely, whether the alleged relationship between the regulated intrastate activity and the substantial effect on interstate commerce would justify turning the Commerce Clause into a general police power. *Id.* at 601.

The fourth consideration is dispositive here.

“[T]he police power of a State embraces regulations designed to promote the public convenience or the general prosperity[.]” *Chi., Burlington, & Quincy Ry. v. Ill.*, 200 U.S. 561, 592 (1906) (citing *Lake Shore & Mich. S. Ry. v. Ohio*, 173 U.S. 285, 292 (1899); *Gilman v. Phila.*, 70 U.S. 713, 729 (1866); *Pound v. Turck*, 95 U.S. 459, 464 (1878); *R.R. Co. v. Husen*, 95 U.S. 470 (1877)). Employment contracts fall within the general prosperity because they involve the very means for growing wealth. Allowing Congress to regulate the general prosperity under the guise of interstate commerce would turn the Commerce Clause into a general police power. As such, the aggregation principle cannot apply here.

Because the aggregation principle does not apply, the intrastate activity between Install Industry and Johnson does not involve interstate commerce. Therefore, the Act cannot regulate Install

Industry's activities without violating the Commerce Clause. Accordingly, the Act does not apply and the Arbitration Clause is enforceable.

IV. CONCLUSION

For the foregoing reasons, Install Industry's motions to stay proceedings and compel arbitration should be GRANTED.

SO RECOMMENDED.

Applicant Details

First Name	Natalie		
Last Name	Awad		
Citizenship Status	U. S. Citizen		
Email Address	natalicawad3@gmail.com		
Address	<table> <tr> <th>Address</th> </tr> <tr> <td> Street 201 Settlers Trace, Blvd. Apt. 4200 City Lafayette State/Territory Louisiana Zip 70508 Country United States </td> </tr> </table>	Address	Street 201 Settlers Trace, Blvd. Apt. 4200 City Lafayette State/Territory Louisiana Zip 70508 Country United States
Address			
Street 201 Settlers Trace, Blvd. Apt. 4200 City Lafayette State/Territory Louisiana Zip 70508 Country United States			
Contact Phone Number	225-229-2927		

Applicant Education

BA/BS From	Louisiana State University-Baton Rouge
Date of BA/BS	May 2015
JD/LLB From	Louisiana State University, Paul M. Hebert Law Center
	http://www.law.lsu.edu
Date of JD/LLB	May 24, 2019
Class Rank	Below 50%
Law Review/Journal	Yes
Journal(s)	LSU Journal of Energy Law and Resources
Moot Court Experience	No

Bar Admission

Admission(s)	Louisiana
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Prior Judicial Experience

Judicial Internships/
Externships **No**
Post-graduate Judicial
Law Clerk **No**

Specialized Work Experience

Recommenders

Methvin, Mildred
memethvin@gmail.com

**This applicant has certified that all data entered in this profile and
any application documents are true and correct.**

January 24, 2023
Attn: Magistrate Judge Irma Carrillo Ramirez
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez:

My name is Natalie Awad and I am an Assistant Federal Public Defender for the Western District of Louisiana Office in Lafayette, Louisiana. I am a first-generation Arab American and the first person in my family to practice law. I am writing to apply for a 2023-2025 clerkship with your chambers.

As a practicing attorney with extensive federal litigation experience, I believe I would make a strong addition to your chambers. My interest in criminal law and public service began when I was a law clerk for John McLindon, a criminal defense attorney in Baton Rouge, Louisiana. As a law clerk, I assisted with researching and drafting memoranda on a variety of legal issues, including crimes under federal law such as complex white-collar crimes, public corruption, and firearm violations. I met with several clients, including the Baton Rouge police officer who fatally shot Alton Sterling in July 2016. It was this difficult experience that taught me the importance of being willing to defend those with whom you may disagree with to pursue fair and proper administration of justice and to protect the Sixth Amendment right to counsel.

After passing the Louisiana Bar Exam in 2019, I became an Assistant Public Defender in the juvenile division at the 15th Judicial District Public Defender's Office. I represented juveniles through all stages of delinquency proceedings, including continued custody and probable cause hearings, traffic cases, contempt hearings, probation revocations, restitution hearings, and drug court proceedings. I routinely interviewed juvenile clients and their families to collect mitigating evidence to prepare for the dispositional phase of their cases.

In May 2021, I had the privilege of joining the Criminal Justice Act Panel for the Western District of Louisiana Federal Public Defender's Office, where I defended federal crimes ranging from narcotics trafficking to fraudulent FEMA claims. I joined the Federal Defender's office on a full-time basis as an Assistant Federal Public Defender in March 2022. Here, I have analyzed discovery and large case files and handled several court appearances including Initial Appearances, Detention Hearings, Change of Plea hearings, Supervised Release Revocation hearings, and Sentencing hearings. Additionally, I have attended debriefings for my clients with the FBI, DEA, and ATF, providing a valuable insight into the investigative strategies and trial preparations of the government.

Although work in the federal criminal justice system is challenging, I am grateful for the opportunity to see the impact my work has had on the lives of many people. The breadth of my work experience reflects a commitment to criminal defense and honing the skills that will make me an effective judicial clerk. I would welcome the opportunity to interview with you, and look forward to hearing from you soon.

Sincerely,

Natalie Awad

Natalie Awad

natalieawad3@gmail.com | 225-229-2927

EDUCATION

PAUL M. HEBERT LAW CENTER, LOUISIANA STATE UNIVERSITY, BATON ROUGE, LA

May 2019

Juris Doctor/Graduate Diploma in Comparative Law Candidate

CALI Award for Highest Grade: Legal Research & Writing I

- *Journal of Energy Law and Resources*, Volume VII, Senior Associate
- John P. Laborde Scholarship Recipient
- LSU Law Student Ambassador
- Diversity and Professionalism Committee Student Chair, Fall 2017- Spring 2018
- Black Law Student Association, 2016 – 2017 Member of the Year Award

PROFESSIONAL EXPERIENCE

Federal Public Defenders Office – Western District of Louisiana

- **Assistant Federal Public Defender** March 2022 – Present
Analyzes discovery and large case files; handles a number of court appearances including Initial Appearances, detention hearings, change of plea hearings, sentencings, and supervised release revocation hearings; conducts plea negotiations with the Assistant United States Attorney, attends debriefings with the FBI and local law enforcement, travels across the Western District of Louisiana to visit clients.
- **Criminal Justice Act Panel member** May 2021 – March 2022

15th Judicial District Public Defenders Office

- **Assistant Public Defender** October 2019 – March 2022
Lead attorney providing holistic legal representation to indigent juvenile clients throughout every stage of delinquency and traffic proceedings; advocates for client interests in court appearances ranging from continued custody hearings through adjudication and revocation hearings; coordinates with investigators, case managers, and clients to help young people achieve their legal and life goals.
- **Intern** August 2019 – October 2019

Move the Mindset Litigation Team

- **Attorney** March 2020 – July 2021
Partnered with local and national advocacy organizations in litigation to move Lafayette's Confederate General Alfred Mouton monument. The monument was successfully removed from downtown Lafayette on July 17, 2021.

John S. McLindon, Of Counsel to Walters, Papillion, Thomas, Cullens, LLC

- **Law Clerk** June 2018 – May 2019
Researched and drafted memoranda on a variety of legal issues, primarily criminal defense, and observed courtroom proceedings and hearings.

BAR ADMISSION

- Louisiana State Bar (2019)
- U.S. Court for the Middle District of Louisiana
- U.S. District Court for the Eastern District of Louisiana
- U.S. District Court for the Western District of Louisiana
- Federal Fifth Circuit Court of Appeals

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BATON ROUGE, LOUISIANA 70803



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NATALIE J AWAD
xxx-xx-3543

BIRTHDATE: 06/14

THE DUNHAM SCHOOL
BATON ROUGE LA, 2011

DEGREES AWARDED:

05/14/2015 BACHELOR OF ARTS
LOUISIANA STATE UNIVERSITY
MAJOR: INTERNATIONAL STUDIES
CONCENTRATION: MIDDLE EAST
MINOR: BUSINESS ADMINISTRATION

05/24/2019 JURIS DOCTOR AND GRADUATE DIPLOMA IN COMPARATIVE LAW
LOUISIANA STATE UNIVERSITY
PAUL M. HEBERT LAW CENTER
MAJOR: LAW

CRSE	COURSE TITLE	SEC	GR	HRC	HRE	QPTS	PROF	CRS	RNK
LOUISIANA STATE UNIVERSITY									
FALL	SEM 2016	L	1	JDCL					
5001	CONTRACTS	1	2.0	3.0	3.0	6.0	BOCKRATH, JOSEPH	28/	31 T
5003	TORTS	1	2.5	3.0	3.0	7.5	CHURCH, JOHN	49/	66 TT
5007	BASIC CIVIL PROC I	1	3.1	2.0	2.0	6.2	LAMONICA, P RAY	18/	66 TT
5009	CRIMINAL LAW	1	2.6	3.0	3.0	7.8	DIAMOND, R	46/	67 TT
5015	LEGAL TRADITIONS & SY	1	2.7	3.0	3.0	8.1	LONEGRASS, M	40/	67 T
5021	LEGAL RESEARCH & WRIT	4	4.0	2.0	2.0	8.0	ALLGOOD, MARLEN		
						SEMESTER	16.0	16.0	43.6 2.725
SEC RNK						LSU SYSTEM	16.0	16.0	43.6 2.725
CLS RNK						CUMULATIVE	16.0	16.0	43.6 2.725
LOUISIANA STATE UNIVERSITY									
SPRING	SEM 2017	L	1	JDCL					
5002	OBLIGATIONS	1	2.3	3.0	3.0	6.9	LONEGRASS, M	51/	65 TT
5006	CIVIL LAW PROPERTY	1	2.4	3.0	3.0	7.2	CARROLL, ANDREA	46/	63 TT
5008	CONSTITUTIONAL LAW I	1	2.4	3.0	3.0	7.2	DEVILIN, JOHN	51/	64 TT
5010	ADMIN CRIMINAL JUSTIC	1	3.0	3.0	3.0	9.0	SULLIVAN, SCOTT	30/	64 TT
5017	BASIC CIVIL PROC II	1	3.0	2.0	2.0	6.0	BOCKRATH, JOSEPH	30/	63 TT
5022	LEGAL RESEARCH & WRIT	4	3.9	2.0	2.0	7.8	ALLGOOD, MARLEN		
						SEMESTER	16.0	16.0	44.1 2.756
SEC RNK						LSU SYSTEM	32.0	32.0	87.7 2.740
CLS RNK						CUMULATIVE	32.0	32.0	87.7 2.740
LOUISIANA STATE UNIVERSITY									
SUMMER	SEM 2017	L	2	JDCL					
5671	SPEC TOPICS: FRANCE	1	2.6	1.0	1.0	2.6	HACKNEY, PHILIP	36/	43 T
5965	COMPARATIVE SALES LAW	1	2.7	3.0	3.0	8.1	HOLMES, WENDELL		
						SEMESTER	4.0	4.0	10.7 2.675
CLS RNK						LSU SYSTEM	36.0	36.0	98.4 2.733
LAW SUMMER PROGRAM IN FRANCE						CUMULATIVE	36.0	36.0	98.4 2.733

PAGE 1 (CONT)

ISSUED 12/07/2020 TO:

NATALIE AWAD
REFNUM: 20041195196

Clayton F. Benton

Clayton F. Benton, University Registrar



LOUISIANA STATE UNIVERSITY AND A & M COLLEGE
BATON ROUGE, LOUISIANA 70803



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NATALIE J AWAD				xxx-xx-3543							
CRSE	COURSE TITLE	SEC	GR	HRC	HRE	QPTS	PROF	CRS	RNK		
LOUISIANA STATE UNIVERSITY FALL SEM 2017 L 2 JDCL											
5300	BUS ASSOCIATIONS I	1	2.8	3.0	3.0	8.4	HOLMES, WENDELL	58/	81	T	
5605	EVIDENCE	1	3.2	3.0	3.0	9.6	DEVLIN, JOHN	20/	59	T	
5623	IMMIGRATION CLINIC CO	1	3.8	2.0	2.0	7.6	ARONSON, LAUREN				
5721	LEGAL PROFESSION, THE	1	2.8	2.0	2.0	5.6	SMITH, GREG	45/	72	T	
5897	ENERGY LAW JOURNAL JR	1	P		1.0		HALL, KEITH B				
6005	IMMIGRATION CLINIC PR	1	HP		3.0		ARONSON, LAUREN				
					SEMESTER	10.0	14.0	31.2	3.120		
					LSU SYSTEM	46.0	50.0	129.6	2.817		
CLS RNK 114/179					CUMULATIVE	46.0	50.0	129.6	2.817		
LOUISIANA STATE UNIVERSITY SPRING SEM 2018 L 2 JDCL											
5312	ACCOUNTING FOR LAWYER	1	3.2	2.0	2.0	6.4	LAGARDE, BRANDO				
5400	EMPLOYMENT LAW	1	2.4	3.0	3.0	7.2	CORBETT, WM	47/	68	T	
5421	CONSTITUTIONAL LAW II	1	2.2	3.0	3.0	6.6	COENEN, M	76/	84	T	
5614	LAWYERING & LEGISLATI	1	P		1.0		CHURCH, JOHN				
5705	CONFLICT OF LAWS	1	2.3	3.0	3.0	6.9	TRAHAN, J RANDA	48/	61	T	
5773	U.S. FOREIGN AFFAIRS	1	2.3	3.0	3.0	6.9	SULLIVAN, SCOTT	31/	36		
5901	IND SUPERVISED RES	17	3.8	1.0	1.0	3.8	GORING, DARLENE				
					SEMESTER	15.0	16.0	37.8	2.520		
					LSU SYSTEM	61.0	66.0	167.4	2.744		
CLS RNK 130/177					CUMULATIVE	61.0	66.0	167.4	2.744		
LOUISIANA STATE UNIVERSITY SUMMER SEM 2018 L 3 JDCL											
5204	SALES & REAL ESTATE T	1	3.1	3.0	3.0	9.3	TRAHAN, J RANDA	11/	35	T	
					SEMESTER	3.0	3.0	9.3	3.100		
					LSU SYSTEM	64.0	69.0	176.7	2.760		
CLS RNK 128/178					CUMULATIVE	64.0	69.0	176.7	2.760		
LOUISIANA STATE UNIVERSITY FALL SEM 2018 L 3 JDCL											
5208	FAMILY LAW: OF PERSON	1	2.8	3.0	3.0	8.4	CARROLL, ANDREA	50/	80	T	
5440	INT'L HUMAN RIGHTS	1	3.5	2.0	2.0	7.0	SULLIVAN, SCOTT	6/	34	T	
5608	TRIAL ADVOCACY	1	P		1.0		CARROLL, ANDREA				
5701	LA CIVIL PROCEDURE I	2	2.8	3.0	3.0	8.4	MORVANT, W	17/	27		
5703	SUCCESSIONS AND DONAT	1	3.0	4.0	4.0	12.0	TRAHAN, J RANDA	30/	63	T	
					SEMESTER	12.0	13.0	35.8	2.983		
					LSU SYSTEM	76.0	82.0	212.5	2.796		
CLS RNK 125/175					CUMULATIVE	76.0	82.0	212.5	2.796		
LOUISIANA STATE UNIVERSITY SPRING SEM 2019 L 4 JDCL											
5401	ADMIN CRIMINAL JUSTIC	1	3.5	3.0	3.0	10.5	SIMIEN, EULIS				
5410	LOCAL GOVERNMENT LAW	1	3.3	3.0	3.0	9.9	TYSON, C				
5542	CAPITAL PUNISHMENT	1	3.6	2.0	2.0	7.2	WASILCZUK, M				
5614	FEDERAL CRIMINAL TRIA	4	P		1.0		CHURCH, JOHN				
5826	ADVANCED TRIAL & EVID	1	P		2.0		PATTERSON, MICH				
5898	ENERGY LAW JOURNAL SR	1	P		1.0		HALL, KEITH B				
					SEMESTER	8.0	12.0	27.6	3.450		
					LSU SYSTEM	84.0	94.0	240.1	2.858		
CLS RNK 114/170					CUMULATIVE	84.0	94.0	240.1	2.858		
*****END OF ACADEMIC RECORD*****											

*****END OF ACADEMIC RECORD*****

STUDENT ALSO ATTENDED LOUISIANA STATE UNIVERSITY AS AN UNDERGRADUATE AND/OR

PAGE 2 (CONT)

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NATALIE J AWAD				xxx-xx-3543			
CRSE	COURSE TITLE	SEC GR	HRC	HRE	QPTS	PROF	CRS RNK
GRADUATE STUDENT. THIS TRANSCRIPT DOES NOT INCLUDE THAT WORK.							



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NATALIE J AWAD				xxx-xx-3543			
CRSE	COURSE TITLE	SEC GR	HRC	HRE	QPTS	PROF	CRS RNK
AWARDS AND HONORS							

FEE WAIVER - DEAN 2016-2017
ENERGY LAW JUNIOR ASSOCIATE 2017-2018
DEAN'S SCHOLAR AWARD 2017-2018
JOHN P. LABORDE ENDOWED SCHOLARSHIP 2017-2018
JOHN P. LABORDE ENDOWED SCHOLARSHIP IN ENERGY LAW
2018-2019
DEAN'S TUITION SCHOLARSHIP 2018-2019




Clayton F. Benton, University Registrar



LOUISIANA STATE UNIVERSITY AND A & M COLLEGE
BATON ROUGE, LOUISIANA 70803



OFFICIAL TRANSCRIPT

LSU LAW CENTER TRANSCRIPT GUIDE

ABBREVIATIONS

CLS RNK.....	CLASS RANKING (L1, L2, L3)
CRS RNK.....	COURSE RANKING (ONLY FOR COURSES WITH 50 OR MORE STUDENTS; AFTER SUMMER 1993 RANK COURSES WITH 25 OR MORE STUDENTS; 'T' BY RANK INDICATES A TIE)
E.....	EXCELLENT
F.....	FAIL
GR.....	GRADE
HP.....	HIGH PASS
HRC.....	HOURS CARRIED
HRE.....	HOURS EARNED
IP.....	IN PROGRESS
P.....	PASS
PROF.....	PROFESSOR
OPTS.....	QUALITY POINTS
SEC.....	SECTION NUMBER
SEC RNK.....	SECTION RANKING (FIRST YEAR STUDENTS ONLY)
W.....	WITHDRAWAL

ADDITIONAL NOTATIONS PRIOR TO 1987

90....	PASS (PASS/FAIL COURSE: NO CREDIT CARRIED OR WEIGHTED POINTS)
91....	FAIL (PASS/FAIL COURSE: NO CREDIT CARRIED OR WEIGHTED POINTS)
92....	DEGREE ONLY (NO COURSE WORK TAKEN)
95....	NON-CREDIT COURSE
96....	PERMANENT INCOMPLETE (PI)
97....	AUDIT ONLY (AU)
99....	INCOMPLETE (I)

SUGGESTED SCALE CONVERSION TO LETTER GRADES
FOR STUDENTS ENTERED PRIOR TO AUGUST 2000

82-89.....	A
76-81.....	B
65-75.....	C
55-64.....	D
54 AND BELOW.....	F

ALL GRADES BELOW 45 (INCLUDING 0) ARE AVERAGED AS A 45.

FOR STUDENTS ENTERING AS OF AUGUST 2000

4.0.....	88-89	2.9.....	77	1.8.....	66
3.9.....	87	2.8.....	76	1.7.....	65
3.8.....	86	2.7.....	75	1.6.....	64
3.7.....	85	2.6.....	74	1.5.....	63
3.6.....	84	2.5.....	73	*1.4.....	62
3.5.....	83	2.4.....	72	*1.3.....	61
3.4.....	82	2.3.....	71	*1.2.....	60
3.3.....	81	2.2.....	70	*1.1.....	59
3.2.....	80	2.1.....	69	*1.0.....	58
3.1.....	79	2.0.....	68	*0.7.....	54
3.0.....	78	1.9.....	67		

ALL GRADES BELOW 1.0 (INCLUDING 0) ARE AVERAGED AS A 0.7.

* EFFECTIVE FALL 2010

THE FACULTY ELIMINATED THE GRADES OF 0.7 TO 1.2. GRADES OF 1.3 AND 1.4 ARE FAILING GRADES RESULTING IN NO COURSE CREDIT AWARDED.

THE LAW REQUIRES THAT INFORMATION FROM THIS RECORD NOT BE RELEASED TO OTHER PARTIES WITHOUT WRITTEN CONSENT OF THE STUDENT.

Clayton F. Benton

Clayton F. Benton, University Registrar

LOUISIANA STATE UNIVERSITY and A & M COLLEGE

Transcript Guide

CREDITS

Credits are reported in semester hours and are based on the number of times a course meets per week during the regular semester.

GRADING SYSTEM 4.0

A+ = 4.3; A = 4.0; A- = 3.7
B+ = 3.3; B = 3.0; B- = 2.7
C+ = 2.3; C = 2.0; C- = 1.7
D+ = 1.3; D = 1.0; D- = 0.7
F = 0

YEAR CLASSIFICATION CODE

1	Freshman
2	Sophomore
3	Junior
4	Senior
5	Senior-5 year curriculum or Post-Baccalaureate Program
6	Master's Program
7	Doctoral Program

COURSE NUMBERING SYSTEM

Course Level

Undergraduate- Remedial
Undergraduate- Freshman
Undergraduate- Sophomore
Undergraduate- Junior
Undergraduate or Graduate- Senior or Graduate
Graduate- Primary post-baccalaureate professional courses
Graduate- Exclusively for teachers at the elementary, secondary and junior college levels
Graduate- Graduate credit only
Graduate- Research courses exclusively for graduate students, primarily for students working toward the Master's Degree
Graduate- Research courses exclusively for advanced graduate students, primarily for students working toward the doctoral degree

GRADES

A	Satisfactory
B	Satisfactory
C	Satisfactory
D	Passing But Unsatisfactory
F	Failure
P	Passing
I	Incomplete
IP	In Progress
S	Satisfactory (Thesis and Dissertation Research Courses)
U	Unsatisfactory (Thesis and Dissertation Research Courses)
AU	Audit
*WA	Withdrawal Passing
*WB	Withdrawal Passing
*WC	Withdrawal Passing
*WF	Withdrawal Failing
W	Withdrawal
NC	No Credit

*Beginning 1983 fall semester these grades no longer assigned.

Effective Sept. 1974

0001 – 0999
1000 – 1999
2000 – 2999
3000 – 3999
4000 – 4999
5000 – 5999
6000 – 6999

Prior to Sept. 1974

1 – 49
50 – 99
100 – 199*
100 – 199*
100 – 199*

7000 – 7999
8000 – 8999
9000 – 9999
*Graduate credit for selected courses only.

SUPPLEMENTARY INFORMATION

- Separate totals are maintained on students in nondegree programs. These include EXT (Extension); PASS (Program for Adult Special Students); PIP (Professional Improvement Program); PLUS (LSU 25+ Program); and, effective Fall 1987 (1S/1988), NMATL, NMATR, NMATX (Graduate nonmatriculating).
- Effective with the fall 1986 (1S/1987) semester, the School of Social Work falls under the jurisdiction of the Graduate School; all credit earned in social work is included in the graduate totals.
- Transfer credit course numbers with one digit and three asterisks reflect transfer equivalency based on course level only.
- Effective with the fall 2013 (1S/2014) semester, students became eligible for the Grade Exclusion Policy. The policy allows students to retake certain courses and to have the grades from the previous attempts removed from the calculation of the cumulative and LSU GPAs beginning in the semester courses were taken. Previous semesters' GPAs are not recalculated.
- Prior to the fall 2015 (1S/2016) semester, grades were awarded without plus and minus distinctions. The previous grading scale was: 4.0 (A=4; B=3; C=2; D=1; F=0).
- Unless specified, student is entitled to honorable dismissal.

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- The document has a recent date of issue.
- The records submitted are consistent with the person's academic/employment background and with your knowledge of the candidate.
- The candidate is reluctant to have an official transcript sent.

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January 25, 2023

Honorable Irma Carrillo Ramirez
United States Magistrate Judge
Northern District of Texas
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez,

I am writing in support of the application of Natalie Awad for a law clerk position. I served as a full-time United States Magistrate Judge for the Western District of Louisiana in Lafayette, Louisiana, from 1983 to 2009, and thereafter served on two recall positions for the District of Maryland and the Middle District of Pennsylvania. I am currently working as a private mediator and arbitrator and also have a solo law practice in New Orleans, Louisiana.

In my almost 30-year career as a U. S. Magistrate Judge, I had occasion to hire many law clerks. I can say without reservation that I would not hesitate to hire Natalie after coming to know her abilities and work ethic.

I met Natalie in 2018 or 2019 in connection with litigation against the City of Lafayette to remove its Confederate monument. Natalie and I both worked *pro bono* on a legal team for Move the Mindset, the organization which spearheaded the legal action which ultimately resulted in removal of the statue in July of 2021. Natalie and I were both listed as counsel of record on the petition of intervention, along with three other attorneys. Natalie was an important and integral part of the team, and everyone found her to be disciplined, effective and personable. She contributed significant time and effort to the project, and always provided timely and relevant research when needed.

I found Natalie to be a complete professional. She was reliable and never missed a deadline or a task. She got along with everyone. Her polite and direct manner were an asset to the team.

In summary, I highly recommend Natalie for a position as a federal law clerk. She has the talent, skill and personality needed for the job.

Sincerely,

Mildred E. Methvin
U. S. Magistrate Judge (ret.)
7414 Sardonyx St.
New Orleans, LA 70124
337-501-1055
mimi@methvinlaw.com

Mildred Methvin - memethvin@gmail.com

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

UNITED STATES OF AMERICA

CRIMINAL NO. 1:21-CR-000-000

VERSUS

JUDGE

JOHN DOE

MAGISTRATE JUDGE

SENTENCING MEMORANDUM ON BEHALF OF JOHN DOE¹

NOW INTO COURT, through undersigned counsel, comes JOHN DOE, who respectfully submits this sentencing memorandum for the Court's consideration in connection with the sentencing presently scheduled for August 30, 2022 at 10:30 a.m. Considering the guideline range that would be in effect under the safety valve statutory provision, Mr. Doe's cooperation and extraordinary rehabilitation, a sentence of 36 months is sufficient but not greater than necessary to achieve the objectives of sentencing.

BACKGROUND

On March 10, 2021, federal agents traveled to Mr. Doe's residence and conducted a knock-and-talk. Mr. Doe was immediately cooperative with the agents and admitted that he had methamphetamine in the house. Mr. Doe consented to a search of his residence and agents seized approximately 96 grams of methamphetamine along with other paraphernalia related to the distribution of narcotics.

Mr. Doe was indicted and on May 26, 2022 he entered a plea of guilty to Possession with the Intent to Distribute Methamphetamine in violation of 21 U.S.C. § 841(a)(1). The United

¹ The name of the client has been altered to protect confidentiality.

States Probation Office prepared a Presentence Investigation Report (“PSR”), sentencing guideline range as 121 to 151 months based on an offense level of 31 and a criminal history category of II.²

Since the date of his arrest in this case, Mr. Doe has undergone an incredible journey of self-realization, rehabilitation and has begun a promising career leading others on the road to a life in sobriety. Mr. Doe’s journey is both commendable and inspiring and supports a variant sentence of 36 months.

The 18 U.S.C. § 3553 factors support a variant sentence of 36 months.

After the initial step of calculating guidelines, the Court should then begin the analysis under 18 U.S.C § 3553 (a) and then determine whether a variance – a sentence outside of the advisory guideline range – is warranted.

The Court is to impose a sentence sufficient but not greater than necessary to comply with § 3553 (a). Moreover, the Court, in determining the particular sentence to be imposed, shall consider: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, (3) to promote respect for the law, and (4) to provide just punishment for the offense; (5) to afford adequate deterrence to criminal conduct; (6) to protect the public from further crimes of the defendant; (7) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; and (8) the need to provide restitution to any victims of the offense.

² See PSR ¶ 69.

Mr. Doe is eligible for safety valve relief under the plain text of the newly expanded safety valve statute, 18 U.S.C. § 3553(f).

Mr. Doe meets all of the requirements of the safety valve provision therefore, the 60-month statutory minimum sentence is inapplicable. Moreover, as set forth below, Mr. Doe's guideline range should be varied downward by two levels.

The safety valve provision in 18 U.S.C. § 3553(f) was amended by Congress in the First Step Act of 2018 to greatly expand those drug defendants eligible for its relief. The Safety Valve now provides:

(f) Limitation on applicability of statutory minimums in certain cases. – Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846), section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963), or section 70503 or 70506 of title 46, the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing, after the Government has been afforded the opportunity to make a recommendation, that –

- (1) the defendant does not have –
 - (A) more than 4 criminal history points, excluding any criminal history points resulting from a 1-point offense, as determined under the sentencing guidelines;
 - (B) a prior 3-point offense, as determined under the sentencing guidelines; and
 - (C) a prior 2-point violent offense, as determined under the sentencing guidelines;
- (2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;
- (3) the offense did not result in death or serious bodily injury to any person;
- (4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines and was not engaged in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances Act; and

- (5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same court of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

18 U.S.C. § 3553(f).

Mr. Doe meets all the requirements of the safety valve: 1) this offense did not involve violence or a weapon and no one was injured during the offense; 2) Mr. Doe was not an organizer or a leader; 3) Mr. Doe has thoroughly debriefed with the government and truthfully provided all evidence requested; and 4) Mr. Doe does not have more than 4 criminal history points, nor does he have a prior 2-point violence offense.

The sentencing guidelines provide for a 2-level reduction for a defendant who is eligible for safety valve relief and refers to U.S.S.G. § 5C1.2, which is the sentencing guideline's own safety valve provision. The § 5C1.2 guideline, however, contains the language from the original safety valve provision before the amendment to the law in 2018. The failure of the § 5C1.2 guideline to be updated to reflect the new safety valve statutory language is because the Sentencing Commission, who amends the guidelines, has lacked a voting quorum since January 2019, less than one month after the amended safety valve statute was enacted. *See Guerrant v. United States*, No. 21-5099, 2022 WL 89257, at *2 (U.S. Jan. 10, 2022). Mr. Doe respectfully requests that this Honorable Court apply a variant sentence to put into effect a two-level reduction in the safety valve guideline that would apply to Mr. Doe but for a lack of quorum at the Sentencing Commission. As noted in the PSR, the applicable offense level for the purpose of a variance would change from 31 to 29, and the corresponding guideline imprisonment range

would then be 97 to 121 months rather than 121 to 151 months.³

Mr. Doe has provided substantial information to federal investigators, which has already led to drug trafficking arrests

While on pre-trial release in this case, Mr. Doe met with federal investigators and the Assistant United States Attorney and provided information on his actions and the actions of others. He truthfully answered all questions asked of him and admitted his own conduct. He did not attempt to evade responsibility for his role in this offense. Mr. Doe provided the names of other individuals that were selling drugs in the community and even offered to assist federal investigators and do a controlled buy if needed. The information Mr. Doe provided to federal investigators led to an arrest and seizure of over \$40,000 of narcotics, resulting in a state-level prosecution.⁴ Mr. Doe's substantial assistance and cooperation supports a downward variant sentence.

It is anticipated that the Government will file a §5K1.1 motion seeking a 30 % downward departure from the guidelines. If, as argued above, the Court varies the guideline range down two levels or safety-valve eligibility, a 30% reduction would result in an offense level of 25 and a guideline imprisonment range of 63-78 months. Mr. Doe maintains that his cooperation should result in a 40 % downward departure. Considering the fact that his cooperation led to an arrest with a substantial amount of narcotics and the personal risk he took in cooperating, Mr. Doe's guideline range, after safety valve variance and §5K1.1 departure is an offense level of 24 and a guideline imprisonment range of 57 to 71 months.

³ See PSR ¶92.

⁴ Lafayette Police Narcotics Unit make an arrest stemming from the recovery of over \$40,000 worth of illegal drugs from information received back in December of 2021, available at <https://www.klfy.com/local/lafayette-parish/1-arrested-1-wanted-after-recovery-of-over-40000-worth-of-illegal-drugs/>.

Mr. Doe presents an extraordinary story of redemption and rehabilitation, which support a sentence of 36 months.

John Doe has documented efforts towards rehabilitation and sobriety, all of which are set forth in the numerous letters from family, friends, and colleagues who can attest to his rehabilitation, which are attached to this Memorandum. (Exhibit A *in globo*).



Mr. Doe appearing on KATC to attest to the positivity re-entry programs can bring.⁵

Mr. Doe was released from custody on December 3, 2021 to receive inpatient substance abuse treatment at the Woodlake Addiction Recovery Center (“WARC”) facility in Abbeville, Louisiana. Mr. Doe successfully completed the program and was referred to the WARC Transitional Living Facility in Lafayette. On January 4, 2022, he was admitted into the WARC Intensive Outpatient Program with residency at their Next Step Living Facility. Three months later, Mr. Doe completed the intensive outpatient program and was referred to their outpatient program. Mr. Doe’s WARC counselor, Ms. Tina Monroe, watched Mr. Doe’s progress and

⁵ See <https://www.katc.com/news/departments-of-corrections-looking-for-partners-in-felon-re-entry-program>

praised it by writing:

“Mr. Doe continues to exemplify what recovery looks like for someone who has surrendered to the severity of their disease. Client appears to have regained his role as a productive member of society by engaging in gainful employment, has become a support for his family members, and a role model for those new to recovery.”⁶

On June 13, 2022, Mr. Doe completed the requirements of the program and was successfully discharged.⁷ Since then, Mr. Doe has been living in an Oxford House sober living facility in Lafayette, Louisiana. Mr. Doe serves as Vice-Chair for the Housing Services (“HSC”) for Lafayette, Louisiana Oxford and assists the needs of the recovery community. Some of his duties are administering drug screens, helping individual houses maintain a healthy image in their community, and participating in scheduled presentations. Mr. Doe is not compensated for his volunteer work at the Oxford House but does so out of service to others.

Ms. Megan Fontenot, a friend of Mr. Doe’s and member of Oxford House, writes:

“I am proud to have been able to serve the 26 Oxford Houses in Lafayette with him, making sure rules were enforced in the houses and teaching the residents of the houses how to operate correctly. He selflessly dedicates the majority of his free time to Oxford and his NA program.”⁸

In addition to his selfless volunteerism with the Oxford House, Mr. Doe has been employed at Lafayette Marble and Granite since February 21, 2022 as a cultured marble installer and works on a full-time basis. As noted in the PSR, the owner of Lafayette Marble and Granite, Mr. Chris Smith, has described Mr. Doe as a “...valued asset. Very reliable and no attendance issues.”⁹ In a letter attached to this Memorandum, Mr. Smith, writes:

“He has plans for himself that include his family, leading his friends to a better life in sobriety and coming back to work here at LMG. We are very proud of him and the life he

⁶ See attached letter from Woodlake Addiction Recovery Center.

⁷ See attached certificate of completion from the ARC Outpatient Program.

⁸ See attached letter from Megan Fontenot.

⁹ See PSR ¶ 56.

has been living as a sober and very productive member of society. We anxiously await when he will be released so that he can rejoin our family...He is someone we truly trust and admire.”¹⁰

John Doe is “stronger than his addiction”¹¹ and has taken advantage of every opportunity to receive treatment. Mr. Doe exemplifies rehabilitation and re-entry into society after a downfall and he looks forward to helping others in their journeys toward sobriety. Mr. Doe has plans to continue his treatment – to that end, Mr. Doe requests that the Court recommend to the Bureau of Prisons that he be afforded the opportunity to participate in the Residential Drug Abuse Program (“RDAP”) to continue his treatment.

CONCLUSION

A sentence of 36 months would be appropriate in this case and is reached by considering the guideline range that would be in effect under the safety valve statutory provision, the substantial assistance and cooperation Mr. Doe provided to the government, and consideration of the 18 U.S.C. § 3553(a) factors and his rehabilitation and employment success. Imprisonment beyond 36 months in this case would serve no other purpose than punishment and would hinder the tremendous progress Mr. Doe has made in his life.

¹⁰ See attached letter from Chris and Candy Smith, owners of Lafayette Marble and Granite, LLC.

¹¹ See attached letter from Kaitlyn Towery.

RESPECTFULLY SUBMITTED,

REBECCA L. HUDSMITH
FEDERAL PUBLIC DEFENDER FOR THE
MIDDLE & WESTERN DISTRICTS OF LOUISIANA

BY: **/S/ NATALIE J. AWAD (#38663)**
Assistant Federal Public Defender
102 Versailles Blvd., Suite 816
Lafayette, Louisiana 70501
(337)262-6336 (Phone) (337)262-6605 (Fax)

ATTORNEY FOR JOHN DOE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above was electronically filed under seal with the Clerk of Court using the CM/ECF system. Notice of this filing and a copy of all filed documents will be sent via electronic mail to:

John W. Nickel
Assistant U.S. Attorney
800 Lafayette St., Ste. 2200
Lafayette, LA 70501
John.Nickel@usdoj.gov

Benjamin Rushing
U.S. Probation Officer
800 Lafayette St., Ste. 2400
Lafayette, LA 70501
Benjamin_Rushing@lawp.uscourts.gov

Lafayette, Louisiana, August 22, 2022.

/S/ NATALIE J. AWAD

Applicant Details

First Name **Leighton**
 Middle Initial **K**
 Last Name **Berridge**
 Citizenship Status **U. S. Citizen**
 Email Address Leighton-Berridge@uiowa.edu
 Address

Address**Street****7 Triangle Place****City****Iowa City****State/Territory****Iowa****Zip****52246****Country****United States**

Contact Phone Number **8178792524**

Applicant Education

BA/BS From **University of Texas-Austin**
 Date of BA/BS **June 2019**
 JD/LLB From **University of Iowa College of Law**
<http://www.law.uiowa.edu>
 Date of JD/LLB **May 1, 2023**
 Class Rank **Not yet ranked**
 Law Review/Journal **Yes**
 Journal(s) **Journal of Corporation Law**
The Harvard Journal of Law and Public Policy
 Moot Court Experience **No**

Bar Admission**Prior Judicial Experience**

Judicial Internships/ Externships	Yes
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Professional Organization

Organizations	The Federalist Society for Law and Public Policy Studies Phi Alpha Delta - Society of Scholars Toastmaster International American Bar Association
---------------	--

Recommenders

Shill, Gregory
gregory-shill@uiowa.edu
Muller, Derek
derek-muller@uiowa.edu
312-533-9523
Strang, Dean
dstrang@luc.edu

**This applicant has certified that all data entered in this profile and
any application documents are true and correct.**

LEIGHTON K. BERRIDGE

7 Triangle Place, Iowa City, Iowa 52246 • (817) 879-2524 • Leighton-Berridge@Uiowa.edu

February 3, 2023

U.S. District Court for the Northern District of Texas
Attn. Honorable Irma C. Ramirez
1100 Commerce Street,
Room 1567
Dallas, Texas 75242

Dear Judge Ramirez,

I am a 3L at The University of Iowa College of Law and want to be your newly minted judicial clerk. I was born and raised in Texas and have had the opportunity to travel to many states and countries, which has broadened my perspective and allowed me to meet people with different backgrounds. My academic and professional experience in legal research, writing, and trial execution will benefit your chambers.

The University of Iowa, College of Law, is known for its outstanding legal writing and research programs, and I have taken every advantage I could to develop those skills. As a Senior Associate Editor for the Journal of Corporation Law, I honed my research skills, perfected my legal writing, and became comfortable and adept at blue booking. I diligently reviewed legal articles every night with my fellow writers throughout my 2L year. These research and writing skills were further refined and expounded as an Editor of the Harvard Journal of Law & Public Policy and the Texas Review of Law and Politics. My skills as a trial advocate and orator have been sharpened as the Director of the Trial Advocacy Board through trial simulations, working with students to sharpen their legal arguments, and helping to conduct trials at the College of Law. I also worked in the Iowa Law Legal Clinic in the Fall of 2022 and provided services in both the General Civil clinic on litigation and the Estate Planning clinic getting insight into how estate planning documents (trusts, wills, etc.) are crafted and the litigation process. Lastly, I serve as the Law Student Division Liaison to the Business Law Section of the American Bar Association. I Represent the ABA BLS to my fellow students, law school business professors, and organizations and provide feedback on reaching more students with the BLS Law Student Committee.

My 1L summer was spent in Collin County, Texas, working for Judge Thompson of the 416th Judicial District Court. I gained insight into the trial process for both criminal and civil proceedings, legal motions, and feedback on legal analytical assignments (agreements, summary judgments, and others). I saw multiple civil law trials, criminal trials, and even family law hearings, one ending with a party threatening the judge, causing an arrest warrant to be issued for his arrest. I further perfected my trial advocacy, research, and writing skills as a prosecutorial intern with the Clinton County Attorney's Office. Through this internship, I performed statutory/case research, motion drafting, and trial preparation and execution for the state of Iowa in magistrate court. I handled bench trials during my ten weeks with the office and won over 90% of my cases. I worked with the County Attorney on skills and strategy to ensure those cases I lost didn't happen again. I additionally researched 6th amendment confrontation clause issues, hearsay exceptions, admitting different types of evidence, and more for the County Attorney.

While at The University of Texas at Austin, I worked at the Texas State Capitol, which improved my research skills through extensive legal research into proposed bills and policy fields for the Representative and handled the inner workings of a high-stress office during the fast-paced legislative session. Through these experiences, I am confident I will benefit your chambers and can assist with any tasks.

I have included my resume, writing sample, and unofficial transcript for your review. Letters of Recommendation will follow from Professors Strang, Muller, and Shill. I have family north of Dallas in Howe, and would like to practice in the Dallas area post-clerkship. Hope to hear from you soon.

Respectfully,

Leighton K. Berridge

LEIGHTON K. BERRIDGE

7 Triangle Place, Iowa City, Iowa 52246 • (817) 879-2524 • Leighton-Berridge@uiowa.edu

EDUCATION

The University of Iowa College of Law

J.D. Anticipated

GPA: 3.22

Activities: Pro Bono Society (Fall 2020, Spring/Fall 2021, Spring/Fall 2022)

3L Vice-President – Federalist Society at Iowa Law

Iowa City, IA

May 2023

The University of Texas at Austin

B.A. – Government • Minor – Business

GPA: 3.65

Honors: College Scholar (2018 & 2019), University Honors (3 semesters)

Activities: Competent Communicator Award – Toastmasters International: August 13, 2019

Austin, TX

June 2019

EXPERIENCE

Texas Review of Law and Politics

Editor

January 2023 – Present

- I provide research analysis and editing for articles with fellow editors on the board.

American Bar Association Business Law Section

Liaison

August 2022 – Present

- Coordinate with the BLS and committee to bring programming and opportunities to law students.

Harvard Journal of Law and Public Policy

Editor

March 2022 – Present

- Research sources for articles, perform bluebook citations, and coordinate with fellow editors.

The University of Iowa College of Law - *Journal of Corporation Law*

Senior Associate Editor

Iowa City, IA

April 2022 – Present

- Assist the Editor-in-Chief in performing first and last passes on articles and research/editing journal material.

Writer

August 2021 – April 2022

- I performed legal research and edited articles for accuracy of content, blue booking, & style/grammar.

The University of Iowa College of Law - *Trial Advocacy Board*

Director

Iowa City, IA

April 2022 – Present

- Lead the board in conducting mock trials, assisting the trial professors, & organizing competitions.

Assistant Director

August 2021 – April 2022

- Assisted the professor in demonstrating, critiquing, and providing feedback to students in trial advocacy.

Clinton County Attorney Office

Prosecuting Intern

Clinton, IA

May 2022 – August 2022

- Handled the magistrate court docket in the Clinton County Magistrate Court, performed research, coordinated witness testimony, and executed trials alone.
- Performed research for felony & commitment cases, including statutory interpretation and stare decisis.

Collin County - 416th District Court [Judge Thompson]

Judicial Intern

Dallas, TX

June 2021 – July 2021

- Observed hearings, trials, etc., with the opportunity to discuss with the Judge and receive explanations.
- Provided the Judge with research on legal issues; given feedback and outcome of legal motions and cases.

VOLUNTEER SERVICE

- **Salvation Army - Service Volunteer** (October 2019 – Present), *Donation Collector* (December 2017 & 2018)
- **Pro Bono Project (Iowa Legal Aid) – Researcher and Data Entry** (October 2019 – November 2019)



STUDENT GRADE REPORT

Name: Leighton K. Berridge
 University ID: 01373962
 Month/Date of Birth: 09/08
 Date Generated: 01/13/23 08:48 AM

Degree(s) from other institution(s):
 BA University of Texas-Austin, Austin, TX 2019

Previous/Transfer institution(s) summary:
 University of Texas-Austin, Austin, TX 2015-2019

*****START ACADEMIC RECORD*****

Course Number	Course Title	Sem	Hrs	Grade
Fall 2020 / College of Law ¹				
LAW 8046	Torts		4.0	2.6
LAW 8032	Legal Analysis Writing and Research I		2.0	3.0
LAW 8037	Property		4.0	3.3
LAW 8017	Contracts		4.0	3.6
LAW 8026	Introduction to Law and Legal Reasoning		1.0	P

	Graded Hrs Att	GPA	Graded Hrs Earned	Hrs Earned
UI Term:	14.0	3.14	14.0	15.0
UI Cum:	14.0	3.14	14.0	15.0

Spring 2021 / College of Law ¹				
LAW 8033	Legal Analysis Writing and Research II		3.0	2.8
LAW 8006	Civil Procedure		4.0	2.9
LAW 8010	Constitutional Law I		3.0	3.0
LAW 8022	Criminal Law		3.0	3.2
LAW 8331	Business Associations		3.0	3.8

	Graded Hrs Att	GPA	Graded Hrs Earned	Hrs Earned
UI Term:	16.0	3.13	16.0	16.0
UI Cum:	30.0	3.13	30.0	31.0

Fall 2021 / College of Law				
LAW 8460	Evidence		3.0	3.2
LAW 8146	Antitrust Law		3.0	3.3
LAW 8504	Corporate Crimes		3.0	3.3
LAW 9804	Legislative Redistricting Seminar		3.0	3.4
LAW 9010	Appellate Advocacy I		1.0	P
LAW 9062	Trial Advocacy Board		1.0	P
LAW 9124	Journal of Corporation Law		1.0	P

	Graded Hrs Att	GPA	Graded Hrs Earned	Hrs Earned
UI Term:	12.0	3.30	12.0	15.0
UI Cum:	42.0	3.18	42.0	46.0

Spring 2022 / College of Law				
LAW 8726	Mergers and Acquisitions		3.0	2.8
LAW 8481	Federal Courts		3.0	3.1
LAW 8342	Topics in Criminal Law Practice <i>Mass Incarceration</i>		3.0	3.6
LAW 8791	Professional Responsibility		3.0	3.7
LAW 9060	Trial Advocacy		2.0	P
LAW 9062	Trial Advocacy Board		1.0	P
LAW 9124	Journal of Corporation Law		1.0	P

	Graded Hrs Att	GPA	Graded Hrs Earned	Hrs Earned
UI Term:	12.0	3.30	12.0	16.0
UI Cum:	54.0	3.21	54.0	62.0

Fall 2022 / College of Law				
LAW 9959	Supreme Court Seminar		3.0	3.0
LAW 9302	Clinical Law Program: Internship		9.0	3.4
LAW 9061	Adv Trial Advocacy - Stephenson Comp		1.0	P
LAW 9062	Trial Advocacy Board		1.0	P
LAW 9127	Student Journal Editor-Journal Corp Law		1.0	P

	Graded Hrs Att	GPA	Graded Hrs Earned	Hrs Earned
UI Term:	12.0	3.30	12.0	15.0
UI Cum:	66.0	3.22	66.0	77.0

¹University operations and instruction continued to adapt to the global public health emergency. Many course offerings and modalities were impacted, which in turn may have affected an individual student's experience in each course.

*****END ACADEMIC RECORD*****

Hours and Points Summary
 The Hours and Points Summary includes transfer credit in the "Overall Cumulative" GPA and "Overall Earned" hours (not necessarily hours towards degree). This summary is only informational and will not appear on your official transcript. Your official transcript is only your University of Iowa hours and GPA as displayed above

	Hours	Points	GPA
UI Cumulative	66.0	212.80	3.22
Transfer Cumulative	0.0	0.00	0.00
Overall Cumulative	66.0	212.80	3.22

Overall Earned	77.0
Transfer Earned	

THE UNIVERSITY OF TEXAS AT AUSTIN

OFFICE OF THE REGISTRAR, MAIN BLDG. ROOM 1, AUSTIN, TX 78712-1157, (512) 475-7575

FICE CODE: 3658 IPEDS CODE: 228778 ATP CODE: 6882 ACT CODE: 4240

FACSIMILE TRANSCRIPT

NAME: BERRIDGE, LEIGHTON K.

STUDENT ID: XXX-XX-9984
DOB: 09/08/95DATE: 05/19/22
PAGE: 1

During the ongoing COVID-19 issues, the University of Texas at Austin, Office of the Registrar, will continue to issue PDF transcripts with an accompanying printable facsimile rendering. Please note, both the view only transcript and the printable facsimile are considered official by the University of Texas at Austin until August 19, 2022.

DEGREES AWARDED BY THE UNIVERSITY OF TEXAS AT AUSTIN:

DEGREE: BACHELOR OF ARTS
DATE: MAY 25, 2019
MAJOR: GOVERNMENT

HIGH SCHOOL: CARROLL SENIOR HIGH SCHOOL CLASS OF 2014
SOUTHLAKE TX

ATTENDED: BAYLOR UNIVERSITY FALL 2014 SPRING 2016
ATTENDED: TARRANT COUNTY COLLEGE SUMMER 2015 SUMMER 2015
ATTENDED: AUSTIN COMMUNITY COLLEGE SUMMER 2018 SUMMER 2018

DATE	ORIGINAL	COURSE DESIGNATION	GR/CR	UT EQUIVALENT
FALL, 2014	BUS 1101	CONNECTNG TO HANKAMER	B 1	B A 1 HR 1
FALL, 2014	BUS 1201	INTRO TO BUSINESS	A 2	B A 2 HRS 2
FALL, 2014	ENG 1302	THINKING & WRITING	B+ 3	RHE 306 3
FALL, 2014	HIS 2366	AMERICAN HISTORY 2	C+ 3	HIS 315L 3
FALL, 2014	THEA 1206	THEATER APPRECIATION	A 2	T D 201 2
SPRING, 2015	ENG 1304	THINKG/WRITG/RESEARCH	B+ 3	RHE 309K 3
SPRING, 2015	HIS 1307	WORLD HIST SINCE 1500	B 3	HIS 301G 3
SPRING, 2015	MIS 1305	INFO TECHNOLOGY/PROC	B- 3	MIS 310 3
SPRING, 2015	PHY 1455	DESCRIPTIVE ASTRONOMY	B+ 4	AST 301 3
SPRING, 2015	PHY 1455	DESCRIPTIVE ASTRONOMY	B+ 4	AST 103L 1

DATE	ORIGINAL	COURSE DESIGNATION	GR/CR	UT EQUIVALENT
SUMMER, 2015	ARTS 1301	ART APPRECIATION	A 3	ARH 301 3

DATE	ORIGINAL	COURSE DESIGNATION	GR/CR	UT EQUIVALENT
FALL, 2015	LF 1124	BOWLING 1	A 1	PED 1 ACT 1
FALL, 2015	MLC 1499	SPEC STUD IN SPANISH	B+ 4	SPN 4 HRS 4
FALL, 2015	REL 1310	CHRISTIAN SCRIPTURES	A- 3	ELV 3 HRS 3
SPRING, 2016	LF 1138	GOLF 1	A 1	PED 1 ACT 1
SPRING, 2016	MTH 1301	IDEAS IN MATHEMATICS	B 3	M 302 3
SPRING, 2016	PSC 1305	AMER NATIONAL GOVT	A 3	GOV 3 U S 3
SPRING, 2016	PSC 2302	AMER CONSTITUTNL DEVL	A 3	GOV 3 U S 3
SPRING, 2016	MLC 1499	SPEC STUD IN SPANISH	A 4	SPN 4 HRS 4

DATE	ORIGINAL	COURSE DESIGNATION	GR/CR	UT EQUIVALENT
SUMMER, 2018	BIOL 1308	BIOLOGY FUNDAMENTALS	A 3	BIO 3 FRMN 3

TOTAL HOURS TRANSFERRED: 052

MORE WORK ON NEXT PAGE

THE UNIVERSITY OF TEXAS AT AUSTIN

OFFICE OF THE REGISTRAR, MAIN BLDG. ROOM 1, AUSTIN, TX 78712-1157, (512) 475-7575

FICE CODE: 3658 IPEDS CODE: 228778 ATP CODE: 6882 ACT CODE: 4240

FACSIMILE TRANSCRIPT

NAME: BERRIDGE, LEIGHTON K.

STUDENT ID: XXX-XX-9984
DOB: 09/08/95

DATE: 05/19/22
PAGE: 2

During the ongoing COVID-19 issues, the University of Texas at Austin, Office of the Registrar, will continue to issue PDF transcripts with an accompanying printable facsimile rendering. Please note, both the view only transcript and the printable facsimile are considered official by the University of Texas at Austin until August 19, 2022.

COURSEWORK UNDERTAKEN AT THE UNIVERSITY OF TEXAS AT AUSTIN

FALL SEMESTER 2016		LIBERAL ARTS					
RTF	305	INTRODUCTION MEDIA STUDIES-WB	3.0	CR			
GOV	310L	AMERICAN GOVERNMENT	3.0	A			
PHL	304	CONTEMPORARY MORAL PROBLEMS	3.0	A-			
UGS	302	CIVIL WAR, VIETNAM, AND TEXAS	3.0	A-			
HRS UNDERTAKEN	12	HRS PASSED 12	GPA HRS 9	GR PTS	34.02	GPA	3.7800
SPRING SEMESTER 2017		LIBERAL ARTS					
LEB	320F	FNDTNS OF BUSN LAW & ETHICS	3.0	A			
MAN	320F	FNDTNS OF MGMT & ORG BEHAVIOR	3.0	A-			
GOV	360N	THE TWO KOREAS AND THE US	3.0	A-			
HIS	315K	THE UNITED STATES, 1492-1865	3.0	Q			
HRS UNDERTAKEN	9	HRS PASSED 9	GPA HRS 9	GR PTS	34.02	GPA	3.7800
FALL SEMESTER 2017		LIBERAL ARTS					
GOV	328L	INTRO TO LAT AMER GOV & POL	3.0	A			
GOV	360N	11-INTERNATL POLITICAL ECONOMY	3.0	A-			
SOC	307C	AMER FAMILIES PAST AND PRESENT	3.0	A			
MNS	307	INTRODUCTION TO OCEANOGRAPHY	3.0	A-			
HRS UNDERTAKEN	12	HRS PASSED 12	GPA HRS 12	GR PTS	46.02	GPA	3.8350
UNIVERSITY HONORS FALL SEMESTER 2017							
SPRING SEMESTER 2018		LIBERAL ARTS					
GOV	324J	GOVS/POLIT OF EASTERN EUROPE	3.0	A			
R S	310	INTRO TO THE STUDY OF RELIGION	3.0	A			
R S	316U	1-HIST OF RELIGION IN THE US	3.0	A			
MNS	308	HUMANS AND A CHANGING OCEAN	3.0	A			
HRS UNDERTAKEN	12	HRS PASSED 12	GPA HRS 12	GR PTS	48.00	GPA	4.0000
UNIVERSITY HONORS SPRING SEMESTER 2018							
FALL SEMESTER 2018		LIBERAL ARTS					
GOV	357M	10-LAW OF POLITICS	3.0	B-			
GOV	365N	15-SUICIDE TERRORISM	3.0	A-			
HIS	350L	64-EINSTEIN IN AGE OF CONFLICT	3.0	B+			
LAS	366	3-MODERN LATIN AMERICA	3.0	A			
HRS UNDERTAKEN	12	HRS PASSED 12	GPA HRS 12	GR PTS	41.01	GPA	3.4175
SPRING SEMESTER 2019		CORRESPONDENCE					
GOV	105	TEXAS GOVERNMENT	1.0	CR			
SPRING SEMESTER 2019		LIBERAL ARTS					
E	316N	WORLD LITERATURE	3.0	A			
GOV	339L	RESEARCH METHODS IN GOVERNMENT	3.0	A			
GOV	374N	POLITICAL INTERNSHIP-WB	3.0	B			
LAS	322	20-JOUR/PRESS FRDM LAT AMER	3.0	A			

MORE WORK ON NEXT PAGE

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THE UNIVERSITY OF TEXAS AT AUSTIN

OFFICE OF THE REGISTRAR, MAIN BLDG. ROOM 1, AUSTIN, TX 78712-1157, (512) 475-7575

FICE CODE: 3658 IPEDS CODE: 228778 ATP CODE: 6882 ACT CODE: 4240

FACSIMILE TRANSCRIPT

NAME: BERRIDGE, LEIGHTON K.

STUDENT ID: XXX-XX-9984
DOB: 09/08/95DATE: 05/19/22
PAGE: 3

During the ongoing COVID-19 issues, the University of Texas at Austin, Office of the Registrar, will continue to issue PDF transcripts with an accompanying printable facsimile rendering. Please note, both the view only transcript and the printable facsimile are considered official by the University of Texas at Austin until August 19, 2022.

CONTINUE SPRING SEMESTER 2019 LIBERAL ARTS
HRS UNDERTAKEN 12 HRS PASSED 12 GPA HRS 12 GR PTS 45.00 GPA 3.7500
UNIVERSITY HONORS SPRING SEMESTER 2019
CUMULATIVE TOTALS EARNED AS AN UNDERGRADUATE STUDENT AT U.T. AUSTIN
HRS UNDERTAKEN 70 HRS PASSED 70 GPA HRS 66 GR PTS 248.07 GPA 3.7586
*** END OF TRANSCRIPT ***

TSI STATUS INFORMATION

TSI AREA	TSI STATUS	EXPLANATION
READING	COMPLETE	COURSEWORK
MATH	COMPLETE	COURSEWORK
WRITING	COMPLETE	COURSEWORK

TEC 51.907 UNDERGRADUATE COURSE DROP COUNTER: X

CORE CURRICULUM SUMMARY

CORE CURRICULUM COMPLETE

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THE UNIVERSITY OF TEXAS AT AUSTIN
Office of the Registrar

SEMESTERS, SESSIONS, AND TERMS: An academic year consists of consecutive fall and spring semesters and the following summer session. A semester normally is about sixteen weeks long. The summer session comprises a first term (f) and a second term (s) each six weeks in duration; work also is offered on a nine-week basis (n) and a whole-session or twelve-week basis (w). The same academic credit is given for a course whether it is taken in the long session or the summer session.

ACADEMIC CREDIT: The unit of measure for academic credit is the semester hour. Most courses meet three hours a week in the long-session semester and have a credit value of three semester hours. The same courses meet for seven and one-half hours a week in a six-week summer term and have a credit value of three semester hours. For students enrolled in graduate programs, GPA hours and hours-passed reflect only those graduate-level courses (excluding thesis, dissertation, report, and treatise) and certain in-residence upper-division undergraduate courses taken while the student was enrolled in the Graduate School. Upper-division undergraduate courses taken in the fall of 1999 through the summer session of 2008 are not included.

COURSE NUMBERING SYSTEM: Courses are designated by a three-digit number or a three-digit number with a capital letter affixed. The first digit in the course number indicates the value of the course: 001-099 indicates zero credit value; 101-199 indicates one semester hour credit; 201-299 indicates two semester hours credit; 301-399 indicates three semester hours credit; and so on. The last two digits indicate the rank of the course: 01-19 indicates lower-division rank; 20-79 indicates upper-division rank; and 80-99 indicates graduate rank.

All courses in the School of Law and some courses in the College of Pharmacy are considered professional rank.

Two courses with the same abbreviation and the same last two digits may not both be counted for credit by a student unless the two digits are followed by a capital letter. Some courses may be repeated for credit. Those courses are indicated in the University's catalogs.

PREFIXES AND SUFFIXES: The suffix letters A, B, and X, Y, Z indicate that a part of the course was given. A suffix of A or B divides the course into two parts; X, Y, or Z divides the course into three parts. In each case, the semester-hour credit given for the course is reduced accordingly.

The prefix letters f, s, n, and w indicate the terms of the summer session (see above) in which the course was offered: f indicates first term; s indicates second term; n indicates nine-week session; and w indicates whole session.

For grading systems used prior to 1979, contact the Office of the Registrar.

GRADE		GRADE PTS PER SEM HR
	1979-1980 through 2004-2005	
A	EXCELLENT	4
B	ABOVE AVERAGE	3
C	AVERAGE	2
D	PASS	1
F	FAILURE	0
I	PERMANENT INCOMPLETE (effective fall 1997)	na ¹
X	TEMPORARY DELAY OF FINAL COURSE GRADE	na ¹
CR	CREDIT	na ¹
NC	NO CREDIT	na ¹
*	COURSE IS CONTINUING	na ¹
Q	OFFICIALLY DROPPED THE COURSE	na ¹
W	OFFICIALLY WITHDREW FROM THE UNIVERSITY	na ¹
#	COURSE GRADE NOT REPORTED BY FACULTY	na ¹
S	SATISFACTORY (DEV courses only)	na ¹
U	UNSATISFACTORY (DEV courses only)	na ¹
	2005-2006 to the present	
A	EXCELLENT ³	4.00
A-		3.67
B+		3.33
B	ABOVE AVERAGE ³	3.00
B-		2.67
C+		2.33
C	AVERAGE ³	2.00
C-		1.67
D+		1.33
D		1.00
D-	PASS ³	0.67
F	FAILURE ³	0.00
I	PERMANENT INCOMPLETE	na ¹
X	TEMPORARY DELAY OF FINAL COURSE GRADE	na ¹
CR	CREDIT	na ¹
NC	NO CREDIT	na ¹
*	COURSE IS CONTINUING	na ¹

Q	OFFICIALLY DROPPED THE COURSE	na ¹
W	OFFICIALLY WITHDREW FROM THE UNIVERSITY	na ¹
#	COURSE GRADE NOT REPORTED BY FACULTY	na ¹
S	SATISFACTORY (DEV courses only)	na ¹
U	UNSATISFACTORY (DEV courses only)	na ¹

Through the summer session of 2009, plus and minus grades are reserved for graduate, graduate business, and law students enrolled in graduate-level, non-law courses. Beginning fall of 2009, plus and minus grades are valid for all students.

A course dropped by the twelfth class day of a long-session semester (fourth class day of a summer session term) is not entered on the permanent academic record.

Prior to fall 1981, NC grades did not appear on the transcript.

SCHOOL OF LAW

Prior to 1990-1991	1990-1991 - Present	
The School of Law employed a numeric grading system with the following alpha equivalents:	Letter Grade	Grade Points Per Sem Hr. ²
	A+	4.3
	A	4.0
85 - 100 = A	A-	3.7
75 - 84 = B	B+	3.3
65 - 74 = C	B	3.0
60 - 64 = D	B-	2.7
BELOW 60 = F	C+	2.3
	C	2.0
	D	1.7
	F	1.3

1. na = not applicable to gpa calculation

2. Official grade point averages are not calculated for students in the School of Law.

3. Grade interpretation is applicable to undergraduate students.

NRTRP2 09/01/2009

February 06, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

I am writing to recommend Leighton Berridge for a clerkship in your chambers. He is a sharp student and an engaged, eager participant in class discussions, and I am confident he would make a terrific addition to your chambers.

I initially came to know Mr. Berridge in fall 2020 as a student in my Contracts class. He was an active voice in class, always prepared when cold-called and also volunteering often (but not too often). When he spoke in class, his comments displayed a high level of preparation and engagement with the material. My class that semester was 64 students, so my ability to comment with specificity on the participation of individual students is somewhat less than I would like, but Mr. Berridge nevertheless distinguished himself in class. I also came to know him during office hours, which he attended often, and by email, where he posed thoughtful and interesting questions.

I also had the good fortune of teaching Mr. Berridge in my Business Associations class in spring 2021. Our students are permitted to take a single elective during their 1L year, and Mr. Berridge chose this challenging, curved, upper-level course as his elective. He not only distinguished himself again with his comments during the class, but earned a final grade of 3.8, placing him in approximately the upper 10-20% of the class—a feat that's all the more impressive considering that he was competing with many upper-class students who had more experience. Like Contracts, this class was taught fully on Zoom, but I have since also had the opportunity to interact with Mr. Berridge in person, where I have observed the same traits as in our earlier interactions—namely that he is thoughtful, hardworking, highly motivated, and courteous.

As a former practicing lawyer and law clerk, I believe Mr. Berridge has a very bright future in practice and would make a terrific contribution to your chambers. Please do not hesitate to contact me if you would like to discuss his candidacy further.

Sincerely,

Gregory Shill
Professor of Law
University of Iowa College of Law
gregory-shill@uiowa.edu
(319) 335-9057

Gregory Shill - gregory-shill@uiowa.edu

February 13, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

I write this letter to recommend Leighton Berridge for a clerkship with you.

I have known Leighton for about two years. He has taken four classes with me: Civil Procedure in Spring 2021; Evidence and a Legislative Redistricting Seminar in Fall 2021; and Federal Courts in Spring 2022. From my experience with him inside and outside the classroom, I believe that he would be an asset in your chambers.

Leighton has been studious and well-prepared for each class. He has invested in completing the reading throughout the term and tackled complicated material in all classes when called upon. He stopped by office hours over the course of each semester to clarify points of uncertainty and to follow up on points of interest. Leighton's investment in reading and seeking to understand the material is admirable. His willingness to seek out feedback to improve his understanding highlights his good work ethic. He was particularly helpful in drawing upon his political experience in our Legislative Redistricting Seminar. He shared the context for constituent services and legislative representation, which fostered productive conversation in the classroom.

He has been invested in the life of the College of Law. From his service on the Journal of Corporation Law to extracurricular activities, he has been an active part of campus life. His presence on campus and his interest in engaging in the material in person confirmed to me his professionalism and his diligence.

Leighton is a pleasant person to be around, a good asset when working in judicial chambers. He has demonstrated professionalism in conversations and in emails. I am confident that he would bring that same professionalism to a clerkship. He is easy-going and good-natured. He would be a great fit in just about any workplace.

I hope you will consider Leighton for a clerkship in your chambers. Please feel free to contact me if you have any further questions.

Sincerely,

Derek T. Muller
Ben V. Willie Professor in Excellence & Professor of Law
University of Iowa College of Law

Derek Muller - derek-muller@uiowa.edu - 312-533-9523

DEAN A. STRANG
Madison, Wisconsin

February 5, 2023

Application of Leighton K. Berridge

Your Honor:

I write on behalf of Leighton Berridge, in support of his effort to attain a federal district court clerkship in Chicago. In addition to teaching fulltime at Loyola University Chicago School of Law, I have been a Visiting Professor at the University of Iowa College of Law, where Mr. Berridge was my student in a seminar of twelve students in the Spring 2022 semester. I also consult and practice criminal defense part-time in Wisconsin. For more than three decades I was a fulltime criminal defense lawyer and for five years of that, the first Federal Defender in Wisconsin.

Leighton is a delightful student. He fits no mold. Leighton is curious about the law and the world, and willing to do the work to become informed before venturing an opinion. A Texan, he thinks for himself without apology – exactly as he should – and worries not at all if the conclusions he comes to sound to others conservative, liberal, libertarian, or none of the above. Rather, he is thoughtful and honestly interested in listening to others, hoping they in turn will hear his view. That view invariably is worth hearing. I also note his strong speaking skills. An upbeat guy, one whose glass always is at least half full so to speak, Leighton is able to articulate well his thoughts and command the attention of his classmates (and his instructor).

Consistent with these traits, Leighton is not pretentious or impressed with himself. He aspires simply to be a very good lawyer and engaged citizen. I anticipate that he would be a welcome and reliable colleague in chambers. I know that I could walk into work in the morning and welcome seeing him. For all these reasons, I commend him to you.

Sincerely,



Dean A. Strang

Questions Presented

I. Under the Missouri Statute § 211.447, does sending postcards and a single phone call deter a finding of abandonment?

II. Does sending \$25 a month anomalously to the child's school deter a finding of abandonment under the Missouri Statute § 211.447?

III. Under the Missouri Statute § 211.447, does attending two-hour weekly visits with the child, while being late to some of them, repent for previous actions, thus deterring a finding of abandonment?

Brief Answers

I. Most likely, yes. Missouri courts consider the capacity for a parent to contact a child more than the total amount or frequency of communication. Because intent is the main factor, sending the postcards as frequently as allowed and even going beyond the phone call, there is most likely no clear, cogent, and convincing evidence of abandonment.

II. Probably yes. Missouri courts consider the parent's capacity and intent to contribute support for the care and maintenance of the child more than the total amount donated. Because contributions occurred when money was available, it will probably be a finding that there is no evidence to terminate the relationship.

III. Probably no. Missouri courts seek above-and-beyond actions to show repentance for previous wrong actions. Because of being late to visits and lacking gainful employment or proper housing, there will probably be a finding that repentance has not occurred.

Facts

Maya Rose is the mother of Alexis Rose, age 12. Rose joined the Witness Protection Program (WPP) after witnessing the death of a federal agent at the hands of a criminal in charge of a money-laundering operation. The FBI brought Rose into the WPP in June 2019. She decided to leave Alexis behind with a friend/neighbor instead of taking her into the WPP.

Rose was taken to a small town and given a job at a local diner. The FBI took her salary and paid for her living expenses; she could keep the tips she made working as a waitress. While working at the diner, Rose anonymously sent \$25 a month to Alexis's school until February, when she lost her job due to the Covid-19 pandemic. She also sent Alexis a monthly postcard with a pre-written message approved by the FBI saying, "Wish you were here." Moreover, the FBI offered her the chance to view her daughter from a car; however, not visit her in person. Lastly, she did call Alexis one time against WPP rules, wishing her a Happy Birthday.

Rose left the WPP after the criminal was murdered by one of his compatriots. She returned in August 2020 after about a 13-month absence. Rose discovered that her friend/neighbor had fallen ill two months prior, at which point a

social worker recommended that Alexis live with a foster family until Rose returned. Since then, Rose has been allowed to meet Alexis for two hours a week; however, she has been late to some of these meetings, claiming the bus was running late. She has also been unable to obtain gainful employment or secure housing outside of living with her friend/neighbor.

Discussion

Missouri Termination of Parental Rights Statute provides, in part,

211.447.5. (1) The child has been abandoned. For purposes of this subdivision, a "child" means any child over one year of age at the time of filing the petition. The court shall find that the child has been abandoned for six months or longer. (b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so.

Mo. Rev. Stat. § 211.447.5(1)(b) (2020). This memorandum will examine the elements of abandonment under this section. Two simple elements must first be dealt with: the statutory abandonment period and the child's age. Alexis is a child because she is above the age of one, and Rose did exceed the statutory abandonment period by leaving Alexis for more than six months. Mo. Rev. Stat. § 211.447.5 (1). The elements requiring a more in-depth discussion are the provisions for communication with the child, financially supporting them, and a shorter examination of the concept of redemption. Mo. Rev. Stat. § 211.447.7 (2)-(3). These elements must be supported by clear, cogent, and convincing evidence. Mo. Rev. Stat. § 211.447.6.

I. Rose's financial support of Alexis is substantial enough, considering her capacity, and should negate the factor in determining abandonment.

The capacity to contribute to the child's financial support is paramount when examining the likelihood of a finding of abandonment. The statute discusses that the parent must contribute to the cost of care and maintain the child as much as possible, including while the child is in the state's custody. Mo. Rev. Stat. § 211.447.7(3) (2020). Financial support is critical in both frequencies of payments and timing. In PLO, the parent "voluntarily left her children in DFS custody for two years" and only tried to take financial responsibility for them after filing the petition to terminate the parent-child relationship. In re PLO, 131 S.W.3d 782, 791 (Mo. 2004). The court found that the parent only made one support payment during the fourteen months when DFS mandated it and only did so after termination was filed. Id. at 789. The appellate court affirmed the judgment that the mother's parental rights were terminated. Id. at 791-792.

The level of support is crucial and assessed in light of the circumstances. In AR, a father lost parental rights because of the lack of financial support after the mother moved the child with notification. In re AR, 52 S.W.3d 625, 628 (Mo. Ct. App. 2001). However, he could prove he did provide essentials, such as food, clothing, and gifts, most of

the time. Id. at 639. The appellate court found that the trial court's termination of the father's parental rights was not supported by clear, cogent, and convincing evidence. Id. at 643.

Any show of support can help tip the scales in the parent's favor. In one case, the parent was incarcerated and only earned thirty-three cents per day. In re MLK, 804 S.W.2d 398, 402 (Mo. Ct. App. 1991). The court asserted that, while not much, any contribution to the child's essential needs helps to fulfill the obligation under the statute because it shows an intent to maintain the relationship. Id. The court ruled that "[e]vidence of this intent, a central consideration in the court's determination, is lacking when, such as here, the parent fails to make any contribution, no matter how diminutive the amount." Id.

In re JW, 11 S.W.3d 699, 704 (Mo. Ct. App. 2000) (Observing, the court did not seem to accept her leaving the child with a friend before incarceration).

In re ZLR, 306 S.W.3d 632, 637 (Mo. Ct. App. 2010) (The father who learned of the child after incarceration offered homes of family members, who were deemed fit, but the court decided against them on the grounds of best interest).

Rose sent money to support her daughter Alexis and intended to maintain the relationship. The donations were sent anonymously to Alexis's school; unfortunately, the court in the cases provided still needs to address this issue of sending anonymous support to a third party to support the child. However, Rose was not coerced by the state, or prompted by the petition for termination, to send donations dissimilar to the mother in PLO. She supported Alexis when she could, up until her job loss in February 2020. The statute only requires giving as much support as possible under the circumstances. Considering the absence of employment opportunities in a small town coupled with the economic shutdown caused by Covid-19, her unemployment would most likely be excused. Additionally, the government was taking her salary for living expenses; she could only donate her tips at the restaurant. The total amount is unknown; however, she did give \$25 per month.

The amount is evaluated in light of the capacity to give to the child. AR, the appeals court found the father did provide the essentials, similar to what Rose was trying to do by sending the donations, even if some interruptions occurred in frequency or amount. Rose provided consistent support when she had the capacity and relied on her friend/neighbor to help Alexis. While family members are usually the predominant caretakers of children in Alexis's situation, the calculation should remain the same when her caretaker was a friend/neighbor/teacher. Moreover, in terms of choosing to leave her daughter instead of taking her into the Witness Protection Program, it seems like the court would look at the best situation for the child, like in the case of ZLR with the offer of family homes being rejected not for being bad situations, but finding the foster home was better. It would likely conclude that uprooting Alexis away from friends, and forcing her to hide out with Rose, would not have been in her best interest. Thus it would not factor

into the calculation, similar to JW leaving her child with a friend and the court not taking that into account in its decision.

The predominant factor is not the total amount or even consistency. Still, the giving of money shows intent to maintain the relationship with the child, as shown in MLK with a wage of thirty-three cents. Rose's \$25 contribution to her daughter's school, the cost of sending postcards, and making birthday phone calls seem to attempt to maintain the relationship. The court will probably find no clear, cogent, and convincing evidence that she abandoned Alexis on the factor of financial support because she was not coerced and gave what she could, considering the circumstances.

II. Rose maintained a level of contact with Alexis throughout the separation period.

The capacity to communicate and support the child is crucial to examining abandonment. The statute discusses that the parent must maintain contact with the child to the extent possible under the circumstances. Mo. Rev. Stat. § 211.447.7(2) (2020). The level of communication with the child is considered critical to maintaining the parent-child relationship while not always possible; the willingness to visit and write is regarded as the significant factor. In AR, the father lost contact with the child because of the mother's actions; however, upon learning of DFS custody, he left his job in Mississippi and relocated to Kansas City temporarily to gain custody. In re AR, 52 S.W.3d 625, 636 (Mo. Ct. App. 2001). "He participated in therapy sessions and visitation with AR over seven months, seeing her at least twelve times." Id. He went to individual therapy sessions and court hearings. Id. Additionally, he attended the family support meeting. Id. The court found that the father made a reasonable effort to take on parental responsibility for the child. Id.

The time that communication was lacking and the efforts to bring it about are two factors considered by the court. In EFBD, the father did not have contact with the child for over six and a half years before DFS took custody. In re EFBD, 245 S.W.3d 316, 327 (Mo. Ct. App. 2008). After coming into DFS custody, the father did not contact the child by phone or write. Id. at 326. The court found that the father showed little interest in maintaining any genuine relationship with the child; thus, his parental rights were terminated. Id. at 327.

Extenuating circumstances can account for some lack of contact, but the excuses are not limitless and do not usually allow for zero communication. In JW, the parent was incarcerated; however, she only made contact with her children ten times over two years. In re JW, 11 S.W.3d 699, 704 (Mo. Ct. App. 2000). "The juvenile officer points out that there were two periods of just slightly under six months during which the children went without any type of contact with Mother." Id. Moreover, she did not contact her children on birthdays or holidays. Id. at 702. The court found her contact with the children nominal and thus disregarded them. Id. at 704. The court determined that termination of parental rights was the best course of action. Id. at 706.

In re JMS, 83 S.W.3d 76, 84 (Mo. Ct. App. 2002) (Observing, the court did not accept the father for not meeting with the child while incarcerated because of the circumstances of the visit).

Rose maintained some form of contact with Alexis throughout their separation period. First and foremost, the offer by the government to "see" her daughter was not an invitation to meet and visit but to only view from afar. Rose's refusal to view her daughter would likely be handled similarly to JMS not meeting with the child. The court would most likely understand that the refusal was appropriate under the circumstances.

While Rose did not match the level of connection as seen by the parent in AR, who saw his child 12 times over seven months, she did maintain constant communication over the 13 months. The language in the postcards could be considered superficial, but her limited capacity to communicate and support factors into the analysis. In JW, communication was limited for the incarcerated; Rose was restricted in what and the amount she could say to Alexis in the postcards. Moreover, she violated the rules of the Witness Protection Program to wish her daughter Happy Birthday. The court will likely find that while Rose's contact was limited and infrequent, it was consistent. As much as possible, considering the limitations on her capacity to communicate, there is a lack of clear, cogent, and convincing evidence to terminate the relationship.

III. Rose attempted to repent for the lack of meaningful communication with her daughter, Alexis.

The parent's actions to repent for previous actions or inactions would deter a finding of abandonment. In EFBD, the father showed little effort to repent, demonstrating a weak case for the return based on that factor. He did not appear for the jurisdictional hearing, did not financially support the child, and only made one phone call to inquire about the child over five months. In re EFBD, 245 S.W.3d 316, 326 (Mo. Ct. App. 2008). The court found that the father did not repent and terminated the relationship. Id. at 325.

Unlike EFBD, the father in AR demonstrated a strong case for repentance as a reason to return the child. He demonstrated repentance by providing financial support, attending therapy sessions, visiting with her twelve times over seven months, and even moving back to Missouri to show commitment. In re AR, 52 S.W.3d 625, 636 (Mo. Ct. App. 2001). The court found these actions to be enough and restored his parental rights. Id. at 643.

While not reaching the level of AR, Rose showed willingness and followed up on every opportunity to be with her daughter Alexis. She did not miss any of her visitation appointments with Alexis, which shows a want to reconnect in the relationship, unlike EFBD, which only made a single phone call. However, Rose has been late to some of these appointments; and lack of employment or permanent housing hurts any claim of repentance or ability to support Alexis if returned. The court will probably find that she has not fully repented in the past.

Conclusion

The court will likely find no clear, cogent, and convincing evidence that Rose abandoned her daughter, Alexis.

Applicant Details

First Name	Finian											
Last Name	Boone											
Citizenship Status	U. S. Citizen											
Email Address	finnrboone@gmail.com											
Address	<table border="1"> <tr> <td>Address</td> </tr> <tr> <td>Street</td> </tr> <tr> <td>528 North Oxford Street</td> </tr> <tr> <td>City</td> </tr> <tr> <td>Arlington</td> </tr> <tr> <td>State/Territory</td> </tr> <tr> <td>Virginia</td> </tr> <tr> <td>Zip</td> </tr> <tr> <td>22203</td> </tr> <tr> <td>Country</td> </tr> <tr> <td>United States</td> </tr> </table>	Address	Street	528 North Oxford Street	City	Arlington	State/Territory	Virginia	Zip	22203	Country	United States
Address												
Street												
528 North Oxford Street												
City												
Arlington												
State/Territory												
Virginia												
Zip												
22203												
Country												
United States												
Contact Phone Number	5713578812											

Applicant Education

BA/BS From	Other
JD/LLB From	Other
	http://www.lawschool.edu
Date of JD/LLB	July 9, 2020
LLM From	Wake Forest University
	School of Law
Date of LLM	May 17, 2021
Class Rank	School does not rank
Does the law school have a Law Review/Journal?	Yes
Law Review/Journal	No
Moot Court Experience	No

Bar Admission**Prior Judicial Experience**

Judicial Internships/Externships	No
----------------------------------	-----------

Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Specialized Work Experience **Immigration**

Recommenders

Guendelsberger, John
john.guendelsberger@gmail.com
Knox, John
knoxjh@wfu.edu
336-758-7439

This applicant has certified that all data entered in this profile and any application documents are true and correct.

January 29, 2023

Dear Sir or Ma'am,

As someone who enjoys learning new things and gaining experience, I am interested in the clerk position at your office because I wish to hone my legal research and writing skills and be exposed to new legal issues.

I received my law degree from Newcastle University Law School, a Russell Group University; the U.K. Russell Group is akin to the U.S. Ivy League. I began law school shortly after I turned 18. There were lengthy periods during my three years in law school when professors were on strike and my final semester was completed remotely due to the onset of the pandemic. I believe my law school grades were impacted by my relative youth and periods in which the coursework was largely self-taught. I believe my grades in the LL.M program at Wake Forest are more reflective of my abilities.

At Wake Forest, I was chosen as the only LL.M student to receive the Dean's Award, for leadership and academic excellence. I also served as an elected representative on the Student Bar Association.

I performed significant legal research in my LL.M program at Wake Forest. For example, I wrote a 60-page thesis on the legality under international law of the plunder of cultural property and proposed that states in possession of plundered cultural property had a duty under international human rights law to return said property. Researching this paper led me to analyze laws, both historical and current, of various countries. While this is not a topic which I would expect to be relevant to the position for which I am applying, I believe it is a good demonstration of my ability to explore varied areas of law and of my research and writing abilities.

I lived in the U.K for five years and have traveled extensively on six continents. My experiences abroad have taught me to consider issues from more than one perspective, and to question my assumptions when learning about matters foreign to me.

Although I am not yet licensed to practice law, I plan to sit for the NY Bar Exam in February of 2023, and I am confident that I will pass.

In conclusion I believe that I would be well-suited to the position of clerk because I am a studious person interested in learning about new areas of law. I consider this position to be a good opportunity for me to challenge myself and learn, as well as to utilize my legal research and writing skills to positively contribute your office.

If you would like to further discuss my qualifications, you can reach me at finnrboone@gmail.com or by phone at 571-357-8812. Thank you for your consideration.

Sincerely,

Finn Boone

FINN BOONE

528 North Oxford Street | Arlington, Virginia 22203
 finnrboone@gmail.com | (+1) 571 357 8812

EDUCATION

Wake Forest University School of Law, Winston-Salem, North Carolina, USA
 Master of Law (LL.M) with a certificate in international law, May 2021
 Dean's Award
 GPA: 3.6

Newcastle University Law School, Newcastle upon Tyne, England

Bachelor of Law (LLB) Honours degree, July 2020

Merchiston Castle School, Edinburgh, Scotland

Graduated July 2017

A-level Courses: Politics, Geography, History

RELEVANT EXPERIENCE

John Guendelsberger, Arlington, VA

Intern, Jan 2022- June 2022

- Assisting with asylum applications and other immigration matters for Afghan individuals
- Interviewing asylum seekers for information to aid their applications
- Researching new developments in Taliban-controlled Afghanistan, and in US law pertaining to Afghan refugees

Kaplan Bar Prep, Winston-Salem, NC

Student Brand Ambassador, Jan- May 2021

- Organized and aided in demonstrations advertising Kaplan's Bar review course

High Sierra Pools, Arlington, VA

Lifeguard (seasonal), July 2016- September 2019

- Watched up to 175 patrons at a time, treated injuries, and reacted to emergency situations
- Worked at 18 pools across Arlington, Alexandria, and Fairfax
- Tested chemicals and monitored water pressure, to ensure that they were in accordance with regulatory codes and standards

Finnegan Europe LLP, London England

Intern, July 2016

- Reviewed patent application forms submitted to the company
- Organized digital files of patent applications and cases
- Organized physical archive of past patent applications and cases
- Supported the managing partner in the office in daily operations

LEADERSHIP EXPERIENCE

Wake Forest University School of Law, Winston-Salem, NC, USA

Student Bar Association (SBA) Representative, 2020-2021

- Participated in the student body governance of the law school
- Member of the Campus Life and Wellness Committees
- As a member of the Wellness Committee helped to design and implement mental and physical wellbeing initiatives during the Covid-19 pandemic

BAR ADMISSION

Sitting for New York Bar Feb 2023

SKILLS

Computer Skills: Microsoft Office, Westlaw, Lexis

Other Skills: Research, Writing, Analysis, Spanish (basic)



WAKE FOREST UNIVERSITY

Office of the University Registrar
P.O. Box 7207
Winston Salem NC 27109-7207

Student Name: **Finian Ross Boone**

ID: 06611461
Majors: Law

Birthdate: 09/08

Entry Date: Aug 17, 2020
Certificates and
Foreign Area Studies
International Law

Minors:

School of Law

Date Printed: 20-OCT-2022

Page: 1

Issued To:

Finian Boone
Parchment: TWH4YUCN

Course Level: Law

Degrees Awarded Master of Laws 17-MAY-2021

Ehrs: 28.00 GPA-Hrs: 24.00 QPts: 87.320 GPA: 3.638

Primary Degree

Major : Law

SUBJ NO.	COURSE TITLE	CRED	GRD	PTS	R
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INSTITUTION CREDIT:

Fall 2020

LAW 104	Civil Procedure I	3.00	B+	9.990
LAW 121	Lgl Anlys, Wrt & Rs-Intl Lwys	2.00	A+	8.000
LAW 501	International Law	3.00	A	12.000
LAW 577	Cross-Border Bus Trans LAWR IV	2.00	B	6.000
LAW 654	International Trade Law	2.00	A-	7.340
LAW 688	Arbitration: Domestic & Intern	2.00	A	8.000
Ehrs: 14.00 GPA-Hrs: 14.00 QPts: 51.330 GPA: 3.666				

Spring 2021

LAW 120	Constitutional Law I	3.00	A	12.000
LAW 305	Professional Responsibility	2.00	B	6.000
LAW 592	International Human Rights	3.00	B+	9.990
LAW 850	Ind Research and Thesis	2.00	A	8.000
LAW 851	Introduction to American Law	2.00	H	0.000
LAW 852	Scholarly Wrtg-Thesis (P/F)	2.00	P	0.000
Ehrs: 14.00 GPA-Hrs: 10.00 QPts: 35.990 GPA: 3.599				

***** TRANSCRIPT TOTALS *****

	Earned Hrs	GPA Hrs	Points	GPA
TOTAL	28.00	24.00	87.320	3.638

INSTITUTION

TOTAL	0.00	0.00	0.000	0.000
TRANSFER				

OVERALL	28.00	24.00	87.320	3.638
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***** END OF TRANSCRIPT *****

AN OFFICIAL SIGNATURE IS WHITE WITH AN OLD GOLD BACKGROUND

REJECT DOCUMENT IF SIGNATURE BELOW IS ALTERED

In accordance with USC 438 (b) (4) (8) (The Family Educational Rights and Privacy Act of 1974) you are hereby notified that this information is provided upon the condition that you, your agent or employees, will not permit any other party access to this record without consent of the student. Alterations of this transcript may be a criminal offense.

Ken J. Gilson, EdD

University Registrar and Assistant Provost for Academic Administration

WAKE FOREST UNIVERSITY CEEB Code = 5885 FICE Code = 003978 Email: registrar@wfu.edu Website: registrar.wfu.edu Phone: (336) 758-5207 Fax: (336) 758-6056
For questions or further information, contact the Office of the University Registrar at PO Box 7207, Winston-Salem, NC 27109. The Office of the University Registrar issues official transcripts for all Undergraduates and the Graduate, Divinity and Business Schools.

VALUE SYSTEM

From Fall 1975 to Summer 2001, the undergraduate school awarded course credits. Credits may be converted into conventional semester hours by multiplying the assigned credits by 0.5 (i.e., 4 credits = 3.6 semester hours). Students matriculating in the undergraduate schools beginning in Fall 2001 receive semester hours. The Graduate and Divinity Schools award conventional semester hours.
After Fall of 1998, the undergraduate and graduate schools changed to a plus-minus grading scale. At that time, the Graduate School also changed from a 3.00 point scale to a 4.00 point scale. Graduate students who matriculated before Fall 1998 but were still enrolled as of Fall 1998 had all earlier grades converted to the 4.00 point scale.

DEFINITION OF GRADES AND GRADE POINT VALUES

TRANSFER CREDITS

Transfer credit may be counted toward the graduation requirements, but grades earned in the transfer course are not used in calculating the Wake Forest grade point average. The grades appearing on the Wake Forest transcript are the actual grades earned, but the units shown are only those accepted for transfer by Wake Forest.
Departmental evaluations are listed in the Bulletins. Some courses transferred from other institutions may have abbreviations not found in the Bulletin.
Repeated courses are flagged (included in GPA) or E (excluded in GPA). For classes taken and repeated at Wake Forest, only one grade remains in the cumulative grade point average, based on Bulletin regulations.

UNDERGRADUATE

Calculated in grade point average:

Grade	Definition	Points
A-	Exceptionally high achievement	4.00
A		3.67
B+	Superior	3.33
B		3.00
C+		2.67
C	Satisfactory	2.33
C-		2.00
D+		1.67
D		1.33
D-	Passing but unsatisfactory	1.00
F	Failure	.67
I	Incomplete	.00
NR	Grade not reported	.00
W/F	Withdrawn Failing	.00
F	Irreplaceable F	.00

Not calculated in grade point average:

EX	Exemption
P	Passing
PF	Failure in Pass/Fail grade mode
IPF	Incomplete in Pass/Fail grade mode
NRPF	Not reported in Pass/Fail grade mode
AU	Audit
DR	Official drop approved by the Dean
NC	Non-credit non-grade course
WD	Withdrawal from the university
T (grade)	Transfer Credit
TNS	Dual-Enrollment Transfer Credit
W	Course Withdrawal

GRADUATE

Starting with the fall 1997 semester, graduate level courses changed from 300, 400, and 500 level courses to the current 600, 700, and 800 level courses.

System Prior to Summer 1998

Calculated in grade point average:

Grade	Points per Hour
A	3.00
B	2.00
C	1.00
D	0.00

Not calculated in grade point average:

Grade	Definition
P	Passing
F	Failure in Pass/Fail mode
NR	Not reported in Satisfactory/Unsatisfactory mode
I	Incomplete in Satisfactory/Unsatisfactory mode
S	Satisfactory
AUD	Unsatisfactory
AUD	Audit
DRP	Drop approved by the Dean after regular drop period
NC	Non-credit non-grade courses
WP	Withdrawal Passing
W/F	Withdrawal Failing

System after Summer 1998

Calculated in grade point average:

Grade	Definition	Points
A	Excellent	4.00
A-		3.67
B+	Good	3.33
B		3.00
C+		2.67
C	Low Passing	2.33
F	Failure	2.00
I	Incomplete	.00
NR	Grade not reported	.00

Not calculated in grade point average:

ISU	Incomplete in Satisfactory/Unsatisfactory grade mode
P	Passing
PF	Failure in Pass/Fail grade mode
IPF	Incomplete in Pass/Fail grade mode
NRPF	Not reported in Pass/Fail grade mode
NR	Not reported in Satisfactory/Unsatisfactory mode
S	Satisfactory
I	Unsatisfactory
AU	Audit
DR	Official drop approved by Dean
NC	Non-credit non-grade course
WD	Withdrawal from the University
W/F	Withdrawal Failing
WP	Withdrawal Passing

LAW

COURSE NUMBER SYSTEM: Courses numbered 100-199 are required first-year courses. Courses numbered 200-899 are upper-level required and/or elective courses. Accepted transfer credits may be numbered 900-999, unnumbered and indicated as such, or Wake Forest equivalent courses.

Calculated in grade point average:

Grade	Points
A+	4.00
A	4.00
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C	2.00
C-	1.67
D+	1.33
D	1.00
D-	0.67
F	0.00

Not calculated in grade point average:

H	Honors
P	Pass
LP	Low Pass
FPF	Failure in Pass/Fail grade mode
AU	Audit
I	Incomplete
NC	No Credit
S	Satisfied
TR	Transfer Credit Accepted
W	Withdrawn from Course
WD	Withdrawn from School

GRADE SUFFIX: V Waived; X Course not calculated in GPA; * Grade not calculated in GPA, credit earned only.

For classes graduating prior to 2019, see: <http://registrar.law.wfu.edu/policies/>

BUSINESS (Graduate)

Students who began the program prior to July 2009 are graded on a 6-point grading system. Students admitted after that date are graded on a 4-point grading system.

Calculated in grade point average:

4 Point Grading System:

Grade	Points
A	4.00
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C	2.00
C-	1.67
D+	1.33
D	1.00
D-	0.67
F	0.00

Not calculated in grade point average:

I	Incomplete
P	Pass/Fail Course
AU	Audit
WD	Withdrawn from the University
WP	Withdrawn passing from a course
W/F	Withdrawn failing from a course
E	Exempt from a course
T	Course transfer
X	Course waived

9 Point Grading System:

Grade	Points
A+	9
A	8
A-	7
B+	6
B	5
B-	4
C+	3
C	2
C-	1

PROFESSIONAL STUDIES

Calculated in grade point average:

Grade	Points
A	4.00
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C	2.00
F	.00

Not calculated in grade point average:

I	Incomplete
WD	Withdrawn
W/F	Withdrawn Failing
T	Transfer



HIGHER EDUCATION ACHIEVEMENT REPORT (Diploma Supplement)

This Higher Education Achievement Report incorporates the model developed by the European Commission, Council of Europe and UNESCO/CEPES for the Diploma Supplement.

The purpose of the supplement is to provide sufficient recognition of qualifications (diplomas, degrees, certificates etc). It is designed to provide a description of the nature, level, context and status of the studies that were pursued and successfully completed by the individual named on the original qualifications to which this supplement is appended. It should be free from any value judgements, equivalence statements or suggestions about recognition. Information in all eight sections should be provided. Where information is not provided, an explanation should give the reason why.

Newcastle University produces the HEAR in a digital format in partnership with Digitary. Only HEARs accessed via the Digitary system can be considered valid and verified.

1 INFORMATION IDENTIFYING THE HOLDER OF THE QUALIFICATION

- 1.1 **Family Name(s):** Boone
- 1.2 **Given Name(s):** Finian Ross
- 1.3 **Date of birth (day/month/year):** 08/09/1999
- 1.4 **Student identification number or code:**
University: 170299668 / HESA: 1711540299665

2 INFORMATION IDENTIFYING THE QUALIFICATION

- 2.1 **Name of qualification and (if applicable) title conferred:**
Bachelor of Laws
The power to award degrees is regulated by law in the UK.
- 2.2 **Main field(s) of study for the qualification:** Laws with Honours
- 2.3 **Name and status of awarding institution:** The University of Newcastle upon Tyne (trading name Newcastle University) - a recognised body with taught and research degree awarding powers
- 2.4 **Name and status of institution (if different from 2.3) administering studies (in original language):** N/A
- 2.5 **Language(s) of instruction/examination:** Teaching and assessment at Newcastle University is in English, except for programmes of study involving language studies, where some teaching and assessment is in the relevant language(s).

3 INFORMATION ON THE LEVEL OF THE QUALIFICATION

- 3.1 **Level of qualification:** Undergraduate Programme assigned to RQF Level 6 (Bologna FQ-EHEA 1st Cycle) in the Framework for Higher Education Qualifications (see section 8 for further details on UK Higher Education System).
- 3.2 **Official length of programme:** 3 Years
- 3.3 **Access requirement(s):**
The typical requirement for entry to level one of an undergraduate degree is three A levels. Equivalent qualifications such as Scottish Highers, Cambridge Pre-U and Baccalaureate are accepted as well as other international qualifications of an equivalent level. Whilst breath of study at post-16 level is welcomed, it is

more important that applicants have demonstrated the ability to study at a progressive and concentrated level.

4 INFORMATION ON THE CONTENTS AND RESULTS GAINED

4.1 **Mode of study:** Full Time

4.2 **Programme requirements:**

The programme requirements are available to view at:

<https://bit.ly/2AZadcr>

4.3 **Programme details, and the individual grades/marks/credits obtained:**

Academic Year 2017 . Study Dates: 25.09.2017 to 15.06.2018

Bachelor of Laws Stage 1 studied in Full Time mode

Module Code	Module Title	Module Credits	ECTS Credit Values	Mark	Module Status	Attempt
LAW1110	Legal Institutions and Method	40	20	52	P	1
LAW1120	Public Law	40	20	50	P	1
LAW1121	Contract Law	20	10	51	P	1
LAW1122	Land Law	20	10	52	P	1

End of stage decision: Proceeding Normally

Academic Year 2018 . Study Dates: 24.09.2018 to 14.06.2019

Bachelor of Laws Stage 2 studied in Full Time mode

Module Code	Module Title	Module Credits	ECTS Credit Values	Mark	Module Status	Attempt
LAW2160	Criminal Law	20	10	50	P	1
LAW2161	General Principles of Tort	40	20	58	P	1
LAW2162	EU Law	40	20	57	P	1
LAW2163	Equity	20	10	53	P	1

End of stage decision: Proceeding Normally

Academic Year 2019 . Study Dates: 23.09.2019 to 12.06.2020

Bachelor of Laws Stage 3 studied in Full Time mode

Module Code	Module Title	Module Credits	ECTS Credit Values	Mark	Module Status	Attempt
LAW3003	Competition Law	20	10	54	P	1
LAW3013	Criminology and Criminal Justice	20	10	61	P	1
LAW3015	Environmental Law	20	10	55	P	1
LAW3016	Evidence	20	10	61	P	1
LAW3017	Public International Law	20	10	48	P	1
LAW3047	Commercial Law	20	10	62	P	1

End of stage decision: 2:2 Hons

Module Status

P	Pass
PC	Pass by compensation
PD	Pass at Board of Examiners' discretion
FR	Fail: right to be reassessed
F	Fail
N	Not tested
NK	Not known
S	Studied but not for credit
C	Concession
D	Decision delayed
DP	Deemed to have passed
X	Entered for resit as external
Y	See previous year
-	Pending

4.4 Grading scheme and, if available, grade distribution guidance: UG Honours Scale**Mark UG Programmes**

0-39	Fail
40-49*	Third Class
50-59	Second Class, Second Division
60-69	Second Class, First Division
70-100	First Class

*The pass mark for Level 7 modules is 50.

The HEAR does not show the outcomes of any Board of Examiners decisions regarding any extenuating circumstances which may have existed for the student named. The end of stage decision(s) and the final classification of the qualification are a judgment by the Board of Examiners on the student's overall academic performance.

4.5 Overall classification of the qualification (in original language):

Second Class Honours, Division 2
Date of Award: 09 July 2020

5 INFORMATION ON THE FUNCTION OF THE QUALIFICATION**5.1 Access to further study:**

This award gives access to 2nd and 3rd cycle Postgraduate study - normally with 2nd class honours or above

5.2 Professional status (if applicable):

Solicitors Regulatory Authority (SRA): The qualifying law degree is recognised by the Solicitors Regulation Authority (SRA) for the purposes of satisfying the academic stage of training.

Bar Standards Board: Accredited by the Bar Standards Board for the purpose of a Qualifying Law Degree.

6 ADDITIONAL INFORMATION

6.1 Additional information:

Newcastle University aims to develop graduates who are independent, proactive and who ethically apply their knowledge and skills in a global context. We believe that the University's diverse curriculum, environment and student experience provides the opportunities for students to acquire the following values to apply to their learning, working and personal life:

- The realisation of personal goals and aspirations derives from continuous learning.
- Apply a positive attitude to taking calculated risks and challenging personal boundaries.
- Create and cultivate relationships to develop knowledge, skills, understanding and opportunity.

6.2 Further information sources:

Additional information may be obtained from the University's website at: www.ncl.ac.uk.

7 CERTIFICATION OF THE HEAR

7.1 **Date:** July 2020

7.2 **Signature:**



7.3 **Capacity:** Academic Registrar

7.4 **Official stamp or seal:**



8 INFORMATION ON THE NATIONAL HIGHER EDUCATION SYSTEM

Description of Higher Education in England, Wales and Northern Ireland

In England, Wales and Northern Ireland, higher education institutions are independent, self-governing bodies active in teaching, research and scholarship. They are established by Royal Charter or legislation and most are part-funded by government.

Higher education (HE) is provided by many different types of institution. In addition to universities and university colleges, whose charters and statutes are made through the Privy Council which advises the Queen on the granting of Royal Charters and incorporation of universities, there are a number of publicly-designated and autonomous institutions within the higher education sector. Publicly funded higher education provision is available in some colleges of further education by the authority of another duly empowered institution. Teaching to prepare students for the award of higher education qualifications can be conducted in any higher education institution and in some further education colleges.

Degree awarding powers and the title 'university'

All universities and many higher education colleges have the legal power to develop their own courses and award their own degrees, as well as determine the conditions on which they are awarded. Some HE colleges and specialist institutions without these powers offer programmes, with varying extents of devolved authority, leading to the degrees of an institution which does have them. All universities in existence before 2005 have the power to award degrees on the basis of completion of taught courses and the power to award research degrees. From 2005, institutions in England and Wales that award only taught degrees ('first' and 'second cycle') and which meet certain numerical criteria, may also be permitted to use the title 'university'. Higher education institutions that award only taught degrees but which do not meet the numerical criteria may apply to use the title 'university college', although not all choose to do so. All of these institutions are subject to the same regulatory quality assurance and funding requirements as universities; and all institutions for themselves which students to admit and which staff to appoint. Degrees and other higher education qualifications are legally owned by the awarding institution, not by the state. The names of institutions with their own degree awarding powers ('Recognised Bodies') are available for download at <http://www.dcsf.gov.uk/recognisedukdegrees/index.cfm?fuseaction=institutes.list&instituteCategoryID=1>

Higher education institutions, further education colleges and other organisations able to offer courses leading to a degree of a Recognised Body are listed by the English, Welsh and Northern Irish authorities, and are known as "Listed Bodies". View the list at: <http://www.dcsf.gov.uk/recognisedukdegrees/index.cfm?fuseaction=institutes.list&instituteCategoryID=2>

Qualifications

The types of qualifications awarded by higher education institutions at sub-degree and undergraduate (first cycle) and postgraduate level (second and third cycles) are described in the Framework for Higher Education Qualifications in England, Wales and Northern Ireland (FHEQ). This also includes qualification descriptors that were developed with the HE sector by the Quality Assurance Agency for Higher Education (QAA - established in 1997 as an independent UK-wide body to monitor the standard of higher education provision - www.qaa.ac.uk). The FHEQ was self-certified as compatible with the Framework for Qualifications of the European Higher Education Area, the qualifications framework adopted as part of the Bologna Process, in February 2009. Foundation degrees, designed to create intermediate awards strongly oriented towards specific employment opportunities, were introduced in 2001.

In terms of the European Higher Education Area they are "short cycle" qualifications within the first cycle. The FHEQ is one component of the Credit and Qualifications Framework for Wales (CQFW). The Qualifications and Curriculum Authority (QCA), the Department for Children, Education, Lifelong Learning and Skills, Wales (DCELLS) and the Council for Curriculum Examination and Assessment, Northern Ireland (CCEA) have established the Qualifications and Credit Framework (to replace, in time, the National Qualifications Framework (NQF)). These authorities regulate a number of professional, statutory and other awarding bodies which control VET and general qualifications at all levels. The QCF is also incorporated into the CQFW. There is a close association between the levels of the FHEQ and the NQF (as shown overleaf), and other frameworks of the UK and Ireland (see 'Qualifications can cross Boundaries' <http://www.qaa.ac.uk/standardsandquality/otherrefpoints/Qualsboundaries09.pdf>)

Quality Assurance

Academic standards are established and maintained by higher education institutions themselves using an extensive and sophisticated range of shared quality assurance approaches and structures. Standards and quality in institutions are underpinned by the universal use of external examiners, a standard set of indicators and other reports, by the activities of the QAA, and in professional areas by relevant professional, statutory and regulatory bodies. This ensures that institutions meet national expectations described in the FHEQ: subject benchmark statements, the Code of Practice and programme specifications. QAA conducts peer-review based audits and reviews of higher education institutions with the opportunity for subject-based review as the need arises. The accuracy and adequacy of quality-related information published by the higher education institutions is also reviewed. QAA also reviews publicly funded higher education provision in further education colleges.

Credit Systems

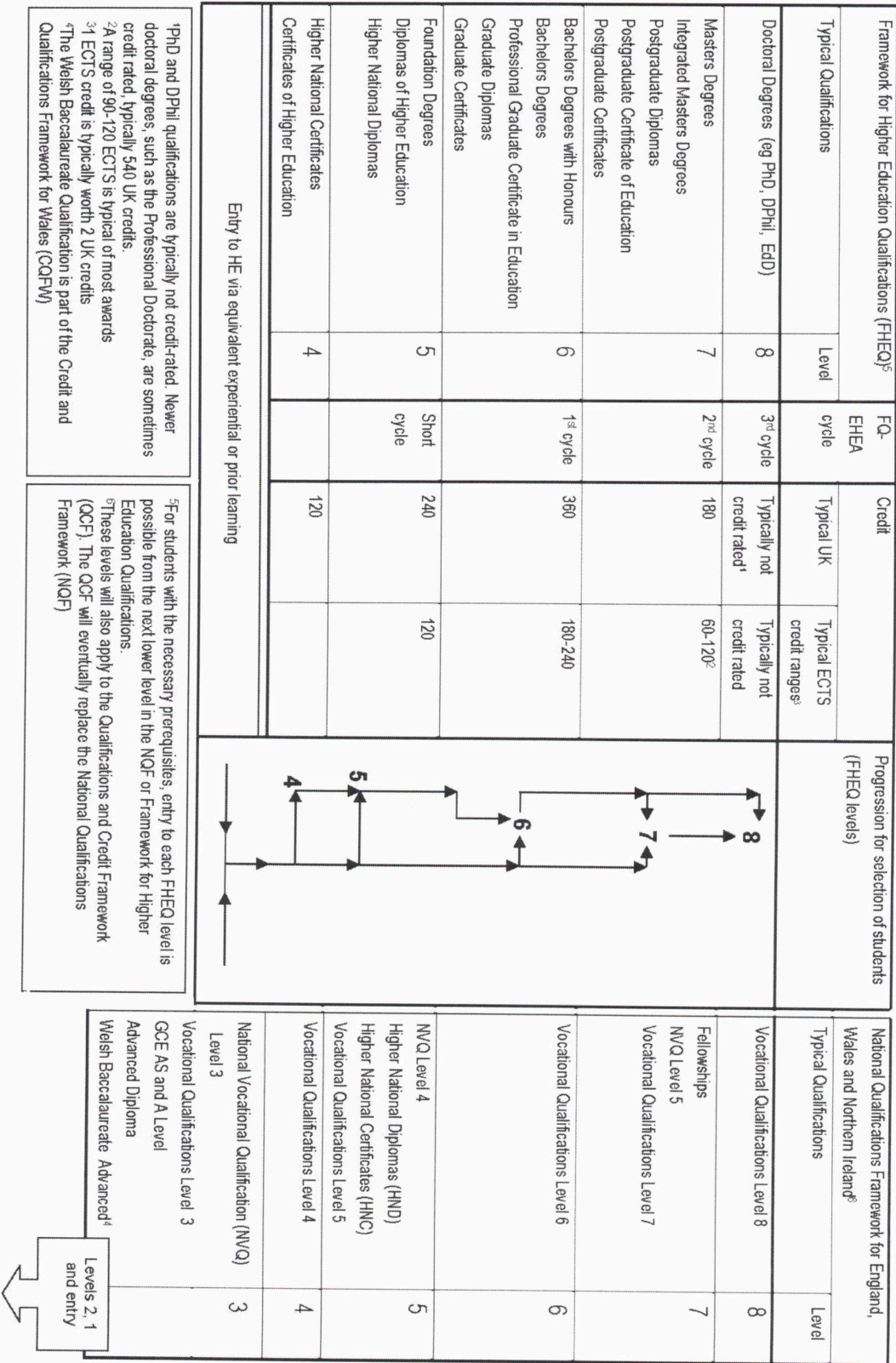
Most higher education institutions in England and Northern Ireland belong to one of several credit consortia and some operate local credit accumulation and transfer systems for students moving between programmes and/or institutions. A framework of national guidelines, the Higher Education Credit Framework for England, was launched in 2008. Credit is also an integral part of the CQFW and the QCF. It may be possible for credit awarded in one framework to be recognised by education providers whose qualifications sit within a different framework. HE credit systems in use in England, Wales and Northern Ireland are compatible with the European Credit Transfer System (ECTS) for accumulation and transfers within the European Higher Education Area, and are used to recognise learning gained by students in institutions elsewhere in Europe.

Admission

The most common qualification for entry to higher education is the General Certificate of Education at 'Advanced' (A) level. Other appropriate NQF level 3 qualifications and the kite-marked Access to HE Diploma may also provide entry to HE. Level 3 qualifications in the CQFW, including the Welsh Baccalaureate, also provide entry, as do Scottish Highers, Advanced Highers or qualifications at the same levels of the Scottish Credit and Qualifications Framework. Part-time and mature students may enter HE with these qualifications or alternatives with evidenced equivalent prior formal and/or experiential learning. Institutions will admit students whom they believe to have the potential to complete their programmes successfully.

The UK has a system of devolved government, including for higher education, to Scotland, to Wales and to Northern Ireland. This description is approved by the High Level Policy Forum which includes representatives of the Department for Business, Innovation and Skills, the Scottish Government, the Welsh Assembly Government, the Higher Education Funding Councils for England, Scotland and Wales, the Quality Assurance Agency (QAA), Universities UK (UUK), GuildHE and the National Recognition Information Centre for the UK (UK NARIC).

Diagram of higher education qualification levels in England, Wales and Northern Ireland



January 29, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

I am writing in support of Mr. Finean Boone's application for a position as a law clerk in your court. I worked closely with Mr. Boone on a number of difficult applications for asylum. Mr. Boone is a hard worker with strong legal research, writing and analytical skills and a commitment to excellence. I would highly recommend him for this position without any reservation.

I recently retired after serving for 20 years as a Board Member on the Board of Immigration Appeals in the DOJ's Executive Office for Immigration Review. After retirement, I have provided pro bono representation to asylum applicants, including refugees from Afghanistan who were resettled in northern Virginia after the Taliban takeover of their country in August 2021. When I met Mr. Boone in January 2022, he was a recent law school graduate interested in helping with the local Afghan refugee project, and he offered to be a law clerk for me in preparing some of these cases. Under my supervision, he interviewed the clients and prepared the asylum applications for four Afghan families (13 family members in all). His help in preparing and presenting these cases proved to be invaluable.

In our meetings with family members we faced significant challenges involving translation issues and cultural filters, as well as understandable hesitation to share the details of the traumatic events they had experienced. Mr. Boone was a careful and attentive interviewer and was often able to spot and clarify critical translation difficulties that arose in working with family members with very limited English. His patient demeanor and good insight helped to gain the trust of family members and a fuller development of the facts underlying their claims for asylum. Mr. Boone also provided considerable help by collecting relevant documents and identifying aspects of the country condition reports that provided the strongest support for the asylum claims.

After the applications were filed, hearings were held on the asylum claims over the course of two days in May 2022 in the Arlington, Virginia, asylum office. Mr. Boone participated in the hearings and presented closing arguments in which he succinctly summarized the key evidence presented and provided compelling arguments for how that evidence met the requirements for asylum in each of the cases.

The Arlington asylum office recently granted asylum to an Afghan married couple and their three minor children in one of Mr. Boone's asylum cases. I credit this result in large part to Mr. Boone's dedication in preparing a thorough and convincing asylum application in their case. We await the outcome in three other cases in which he assisted.

In sum, Mr. Boone has demonstrated a high degree of competence, commitment, enthusiasm, and empathy in his work on these very difficult asylum cases. I think that these cases have given him valuable practical experience in working through complex problems inherent in interviewing clients and witnesses, in gathering and evaluating facts and evidence, in researching complex legal issues, and in shaping and presenting persuasive legal arguments. For these reasons, and without any reservation, I wholeheartedly recommend Mr. Boone for this position.

Sincerely,

John Guendelsberger

John Guendelsberger - john.guendelsberger@gmail.com

Re: Application of Finn Boone

Dear Judge:

I am writing in support of Finn Boone's application to serve as a judicial clerk. Finn is an outstanding attorney who would make a first-rate clerk, and I recommend him enthusiastically.

Finn received a Master of Law (LLM) from Wake Forest School of Law in 2021, after previously receiving a Bachelor of Law (LLB) degree from Newcastle University Law School in England in 2020. Wake Forest's LLM program enrolls attorneys from around the world who already have their first legal degree and wish to learn about U.S. and international law.

I first met Finn in the fall of 2020, when he took two of my courses: International Law and International Trade Law. He took another of my courses, International Human Rights, in the spring of 2021.

At Wake Forest, the LLM students take the same courses as JD students. Most of the students in all of the classes that Finn took from me were JD students, and I assigned the same material, and the same exams, to JD and to LLM students. I say this to underscore that Finn stood out not only from other LLM students, but from JD students as well. In each course, he demonstrated his keen intelligence, a dedication to grasping difficult legal concepts, and an ability to describe and analyze legal issues clearly and succinctly.

We require each of our LLM students to write a thesis – a detailed, lengthy research paper examining a particular legal issue in depth. It is customary in recommendation letters like this for the author to say something like, "I had the pleasure of being Finn's thesis advisor" – but in his case, it really was a true pleasure! He wrote one of the most interesting theses I have ever read. It addressed the historical practice of plunder of art and cultural work, chiefly by European countries during the colonial period. He provided historical context, dating back to antiquity, both for the practice and for the norms against it. This alone would have made the paper enjoyable to read, but what made it really stand out was the way that he wove legal analysis together with the fascinating stories of art theft.

As Finn made clear, these issues are not just of historical interest, because many European countries continue to refuse to repatriate art and cultural artifacts to their countries of origin. (The Elgin marbles, taken by the United Kingdom from Greece and held in the British Museum, are perhaps the most famous example, but Finn described many others as well.) He argued that the refusal to return cultural property violates requirements of international law,

including international human rights law, and he considered what recourses may be available to nations and communities seeking restitution.

The paper was extraordinarily clear and well-organized. It testified to Finn's ability to conduct research with minimal oversight and guidance. The issues he addressed were not covered in any of the courses on international law that he took from me (or anyone else, for that matter), but he was nevertheless able to educate himself on the issues and the relevant law. My experience advising Finn on the paper also testified to his ability to take into account and respond to feedback. He listened carefully to my comments and addressed them, without any degree of pushback or "pride of authorship."

I had the honor of serving as a judicial clerk to Judge Joseph T. Sneed on the Ninth Circuit Court of Appeals in 1987-88, the year after I graduated from law school. While that is now 35 years ago, I still have vivid memories of the experience and a clear recollection of the qualities that the position requires. Finn possesses them in abundance. In addition to his excellent research and writing skills, he is mature and highly responsible. He requires no hand-holding, but he does not resent or resist critiques; he takes on tasks with energy and determination and sees them through. His background in the English as well as the U.S. legal system gives him a broader range of experiences than most young attorneys. On top of everything else, he is a pleasure to work with – unfailingly cheerful and interesting. I have no doubt that he will be an outstanding judicial clerk.

In short, I recommend him without reservation. If you have any questions, please don't hesitate to call me at (336) 758-7439 or email me at knoxjh@wfu.edu.

John H. Knox

Henry C. Lauerman Professor of Law
Wake Forest University

Excerpt from Thesis “Broken Past: How the Theft of Cultural Heritage Holds the Future Hostage”

Introduction

In antiquity, when a victorious power had their defeated enemy at their mercy, they were within their rights to inflict whatever punishment they saw fit upon their adversary. One of the most common conclusions to conflicts was the loss of the defeated party's property, with money, valuables, and artwork being some of the most common possessions lost. This is because from the beginning of written history the rule that guided nations was that of “to the victor, the spoils”. [Discussion of the early historian Xenophon and his contemporary philosopher Thucydides omitted from excerpt].

Since then, the world's understanding of art as a form of cultural heritage has developed, as has the world's belief that the looting of property, and cultural property in particular, is no longer a just punishment for losing a conflict. This is especially true since the development of the concept of cultural property and heritage, the development of the customary law against plunder, and the formation of an international legal society which is formed on the equality of all nations in areas extending to culture and self-determination.

Because of this, the European plunder of cultural property, particularly in connection with colonialism, was a violation of international customary law. The continued refusal of European countries to repatriate cultural heritage represents ongoing violations of human rights law. The precedent set by the *Charzow Factory* case states that where a violation of international law has occurred, the proper remedy is one that best undoes the harm caused by the violation¹. Because of this, restitution is the only proper resolution in where looted cultural property is concerned.

* * *

1. General History of Art Looting

Throughout history, when two groups have gone to war, the loser in the conflict has always suffered a number of consequences at the hands of the victor. These penalties could range from tributes, to enslavement, to annexation of land. However, one of the most perennial outcomes in a conflict is that the defeated party would lose their property. This could be their personal property or public property, either of which could constitute cultural property. When this looting came at the end of a successful siege, this would also typically include the art and cultural property housed in the defeated city.

This paper focuses on examples of art plunder by the Romans, Napoleonic looting of art during the late 18th and early 19th centuries, and the looting of art spanning from the mid-19th to early 20th centuries. These examples, contain some of the most well recorded, well studied, and systematic instances of the looting of art. Moreover, this paper will primarily focus on instances of art looting by Europeans, as while many societies practiced some version of “to the victor, the spoils”, the instances of looting by Europeans have the most long-lasting effects, in that much of what European states have looted over the years exists to this day in European museums and private collections. This is because as states developed global interactions with civilizations both far and foreign from each other over the course of the past half millennium, European states consistently exerted supremacy over other cultures. As this paper focuses not only on the historical theft of art, but also on current and continuing efforts at restitution, art plunder by Europeans bears the most relevance.

¹ *The Factory at Chorzow (Germany v Poland)* [1928] (Permanent Court of International Justice), p.125.

* * *

2. What is Cultural Property? [Omitted from Excerpt]

3. What Makes Customary Law?

Customary law is one of the major (and oldest) sources of international law, dating back to ancient times. In Section 38 of the Statute of the Court, the ICJ recognizes customary law as “a general practice by accepted as law”². This accepted definition of customary law requires two main points: a general practice of states, and a belief that the practice is required of them. This latter requirement is known as *opinio juris sive necessitates*, meaning that the general belief that a practice is law is what binds states to follow that practice.

The creation of a new custom of international law requires consistent practice over an extended period by states, in order to demonstrate the lasting belief in the law. This requirement of consistency does not require a lack of tension. As the *Paquete Habana* shows, a general practice can be abandoned for a time and later restored³, which counts towards the establishment of a custom to the extent that there is an overall trend that the practice is accepted. It is almost inevitable that a state will challenge an emerging custom, and as such tension is natural, but a continued rejection of the practice undermines the claim that said practice is an emerging custom.

4. Customary Law Against the Plunder of Artwork

It is now generally uncontroversial that there exists a custom of international law under which states shall refrain from wartime plundering. This custom can be seen in various treaties stretching back more than a century. The Hague Conventions of 1899, 1907 and 1954 could be said to be a codification of such a custom⁴. The UNESCO World Heritage Convention of 1972 considers that such a custom exists to be a given, as the entire convention concerns the preservation of cultural heritage⁵. While not a primary authoritative source on international law, the International Committee of the Red Cross lists a prohibition of pillaging as Rule 52 in its index of international customary law⁶. Article 3(e) of the Statute of the ICTY also listed the plunder of private property as a violation of the customary law of war⁷. The Statute of the ICC lists “pillaging a town or place” as a war crime under Article 8⁸.

* * *

To understand the history of the custom against plunder, one must consider events dating back more than 2,000 years. [Discussion of Quintus Fulvius Flaccus⁹, Sulla¹⁰, the Aetolians¹¹, Scipio

² “Statute of the Court | International Court of Justice,” Art 38, accessed May 3, 2021, <https://www.icj-cij.org/en/statute>.

³ *The Paquete Habana*, 175 U.S. 689 (1900)

⁴ “Treaties, States Parties, and Commentaries - Hague Convention (IV) on War on Land and Its Annexed Regulations, 1907 - Regulations: Art. 56 -,” accessed May 3, 2021, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=034B6C1D89908D0AC12563CD00516962>.

⁵ “CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE.”

⁶ “Customary IHL - Rule 52. Pillage,” accessed May 3, 2021, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule52.

⁷ “Statute_sept09_en.Pdf,” Art. 3(e), accessed May 4, 2021, https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf.

⁸ “Rs-Eng.Pdf,” Art. 8, accessed May 4, 2021, <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>.

⁹ Miles, *Art as Plunder*, 79.

¹⁰ Miles, 94.

¹¹ Miles, 84.

Aemilianus¹², Cicero's prosecution of Verres¹³, the Greek historian Polybius, Grotius¹⁴ omitted from excerpt.]

This rebirth of Roman ideals in during the enlightenment which inspired Grotius were not insignificant. His treatises led to renewed interest in Roman-influenced customary law. Their writings almost certainly informed the way in which nation-states interacted after the Peace of Westphalia in 1648, when states were guided by the principle of Westphalian sovereignty¹⁵. Westphalian sovereignty entailed states recognizing that the borders and internal affairs of foreign nation-states were inviolable¹⁶. Only minimal analogizing is needed to apply this same reasoning to the cultural property of states.

The Peace of Westphalia marked a recognition by the powers of Europe that war was an ultimately self-destructive practice. In a similar vein, the looting and destruction of artwork left humanity as a whole culturally impoverished¹⁷. As Polybius had pointed out centuries before, even if artwork was not destroyed and instead merely looted, the people who had lost their artwork were still likely to become bitter and jealous towards those that had looted their property, likely leading to further conflict and retributive looting¹⁸. For these reasons, an international society with norms of respectful sovereignty was needed to curb such practices. True to this logic, historians have cited that pillaging of artwork by European states waned in the years following the Peace of Westphalia¹⁹. The Peace of Westphalia also resulted in the first incident in history of the creation of a commission for restorative justice which arbitrated on the restoration of real property that had been captured during the Thirty Years War²⁰. The emergence of the "law of civilized nations"²¹ marked the beginning of a period in which European states began to recognize the value of adhering to norms from which states mutually benefitted, including refraining from the plunder of artwork.

[Discussion of de Vattel, *The Law of Nations*, omitted from excerpt]

The writings of jurists such as Grotius and de Vattel were not simply theoretical but were reflected in the actions of states in the following centuries. In 1812, the Vice-Admiralty Court of Halifax ruled in the *Marquis of Somerueles* case that an Italian painting seized from an American merchant vessel during the War of 1812 had to be returned to the petitioners²². The petitioners in this case asserted that significant works of the arts and sciences were immune from wartime plunder and should thus be returned to their rightful owners²³. The court accepted this argument, clearly drew inspiration

¹² *ibid*

¹³ Robertson, *Who Owns History?*, iv.

¹⁴ Stumpf, Christoph. "Hugo Grotius and the Universal Rule of Law." In *Morality and Responsibility of Rulers: European and Chinese Origins of a Rule of Law as Justice for World Order*, edited by Anthony Carty, and Janne Nijman. Oxford: Oxford University Press, 2018. Oxford Scholarship Online, 2018. doi: 10.1093/oso/9780199670055.003.0009.

¹⁵ "Peace of Westphalia | Definition, Map, Results, & Significance," Encyclopedia Britannica, accessed May 3, 2021, <https://www.britannica.com/event/Peace-of-Westphalia>.

¹⁶ *ibid*

¹⁷ Miles, *Art as Plunder*, 298.

¹⁸ Miles, 83.

¹⁹ Yue ZHANG, "Customary International Law and the Rule Against Taking Cultural Property as Spoils of War," *Chinese Journal of International Law* 17, no. 4 (December 1, 2018): 19, <https://doi.org/10.1093/chinesejil/jmy030>.

²⁰ Robertson, *Who Owns History?*, 206.

²¹ "Civilized Nations," Oxford Public International Law, accessed May 3, 2021, <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1748>.

²² ZHANG, "Customary International Law and the Rule Against Taking Cultural Property as Spoils of War," 28.

²³ Merryman, J. (1996). The Marquis de Somerueles: Vice-Admiralty Court of Halifax, Nova Scotia Stewart's Vice-Admiralty Reports 482 (1813). *International Journal of Cultural Property*, 5(2), 319-329. doi:10.1017/S0940739196000100

from the de Vattel quote used earlier in this section and stated in its ruling that the theft of such significant works of art constitute a violation of the law of civilized nations²⁴.

It should be noted that the clearest example of the practice of the custom against the looting of cultural property was the decision of the Allied Nations to return artwork looted by Napoleon I of France. This decision, spearheaded by the Duke of Wellington, was made with the belief that the Allied Nations were under the legal obligation to do so. [Details of Napoleon's plunder omitted from excerpt]. At the Vienna Conference, under the leadership of the Duke of Wellington, the Allied Nations decided to return the looted artworks to their historical seats. This decision was momentous, as it marked the first major occasion since the Siege of Carthage that a victorious power allowed those who had lost art to the defeated power to reclaim it²⁵. European nobles, sovereigns and even the Pope thanked Wellington and praised England for their generosity and leadership in breaking from the historical trend of "to the victor, go the spoils"²⁶.

Wellington's correspondence is widespread, and in various letters and published articles, he listed a variety of reasons for his belief that restitution was the only moral decision²⁷. * * *

The fact that all the states present at the Vienna Conference were in unison on the matter of restitution²⁸ shows how the writings of de Vattel and Grotius had come to guide the actions of European states in refraining from plundering their enemies, as well as having a duty to return looted art. Furthermore, given that Napoleon opted to first conceal his looting, and then to use inequitable and coercive treaties as justification for his acts of plunder, it is a fair assumption that he knew his actions were in violation of the law of nations²⁹.

What makes the event of the return of artwork looted by Napoleon significant was not the looting, but the response to it. As it is inevitable that a party will challenge an emerging custom, it is accepted that the general practice required in the creation of a custom of international law does not imply a lack of tension in the rule. On the contrary, it is how states confront such tension, in this case the widespread looting by Napoleon, which best defines the custom. Prior to Napoleon's plundering of Europe, states had generally refrained from looting the property (specifically cultural property) of their enemies, but this only shows the absence of the practice forbidden by the custom. What serves as the most concrete evidence of the existence of the custom against plunder is how the Allied Nations decided to react to Napoleon's violation of the rule. Their unwavering decision to go beyond the custom requiring them to personally refrain from looting and return art which was plundered in violation of the custom is what marks the occasion as particularly significant evidence in favor of the preexistence of the custom against plunder.

As shown in the above section, the system of Westphalian sovereignty combined with guidance provided by the writings of Grotius and de Vattel resulted in a general practice of states refraining from plundering the cultural property of their enemies, as well as believing they were under a duty to set right acts of looting which occurred. This provides evidence to show that the custom against plunder

²⁴ *ibid*

²⁵ Miles, 329.

²⁶ Miles, 341.

²⁷ Miles, 332.

²⁸ ZHANG, "Customary International Law and the Rule Against Taking Cultural Property as Spoils of War," 26.

²⁹ ZHANG, 23.

had emerged by early 19th century. As often happens with customs of international law, the general practices of refraining from plunder preceded the codification of the custom in various treaties.

The United States was the first state to recognize in positive law the obligation to refrain from plunder. The Lieber Code of 1863 was drafted with the events of the past several centuries in mind. [Further discussion of the Lieber Code, the Brussels Declaration of 1871, the Hague Conventions of 1899 and 1907³⁰ omitted from excerpt].

Due to the evolving and often unwritten nature of customs it can sometimes be difficult to isolate a specific point in history at which the custom emerged. It can safely be said that by the 21st century the custom has since expanded to prohibit all plunder, however a custom prohibiting the looting or destruction of movable and immovable objects of great artistic, scientific, religious, or historical significance clearly existed by the early 19th century at the latest. The actions and arguments of Wellington and the Vice-Admiralty Court in Halifax show how by that point states believed that plunder of such objects violated the law of civilized nations.

5. European Plunder in Violation of the Custom

The previous sections established that European states followed a general practice of refraining from plunder (and even repatriating plunder on some occasions) and did so because they intended to be bound, and subsequently acknowledged that they were bound, by a custom of international law. Despite the custom prohibiting plunder, European states still violated this rule by committing acts of widespread plunder on numerous occasions, in particular during conflicts with states and peoples outside of Europe during the 19th century. How, one might ask, did European states reconcile such actions with the custom forbidding plunder of objects of artistic and historical significance that they clearly believed they were bound by? This seemingly schizophrenic practice of plundering while believing that plundering was a violation of the law of civilized nations can be explained primarily as a matter of perception, chiefly perceptions of what peoples constituted a “civilized nation” and what constituted an object of artistic, historical, or religious significance.

To understand why European states did not refrain from looting the artwork of nations during wars in other continents, one should consider the reasons which led Europeans to refrain from plundering each other. As mentioned above, the Peace of Westphalia ushered in a new era in which European nation-states respected the sovereignty of their peers, a concept which extended to the cultural property of other Europeans. However, it seems that the protections on cultural property granted to states by implication of sovereignty were only afforded to other European nations.

While European nation-states were to respect each other’s sovereignty, they treated the sovereignty of nations foreign to them with callousness. Throughout the centuries following the Peace of Westphalia, as European states projected their power onto other civilizations, they did not refrain from violating sovereignty or the custom against looting. This can be seen in examples such as the Fourth Anglo-Mysore War and the Opium Wars.

The Fourth Anglo-Mysore War lasted from 1798-1799 and was undertaken due the apparent alliance between France and the Kingdom of Mysore, led by Tippu Sultan³¹. Britain initiated the conflict as the possibility of an alliance between France and Mysore threatened British hegemony in India³². As

³⁰ ZHANG, 36.

³¹ “Mysore Wars | Indian History,” Encyclopedia Britannica, accessed May 4, 2021, <https://www.britannica.com/event/Mysore-Wars>.

³² *ibid*

Britain wished to counter the influence of France in India and increase their own relative power, the British East India Company fought alongside the Hyderabad Deccan against Mysore³³. At the conclusion of the conflict, the British looted the contents of the Summer Palace of Tippu Sultan, taking the now-deceased ruler of Mysore's artwork³⁴. What marks the event as significant in the study of European treatment of the sovereignty of other states was that the Duke of Wellington had participated in the looting of the Summer Palace³⁵. This was the same Wellington who less than two decades later would lead the campaign to return European artwork looted by Napoleon, asserting that there was a duty to respect the ownership rights of the original possessors of the art.

Similar events occurred in the First (1839-1842) and Second (1856-1860) Opium Wars between Britain and China. Both wars were initiated by Britain in response to China's campaigns against the British opium trade³⁶. British opium had led to widespread addiction in China and subsequently, economic woes for the nation³⁷. In both wars the Qing Dynasty closed its ports to British merchant vessels and arrested merchants selling opium, leading to the conflicts³⁸. Britain's rationale for initiating the Opium Wars was essentially one of punishing China for stifling the British opium trade, disregarding China's sovereignty over trade within its own borders. When China lost both wars, Britain looted the former, looting the Old Summer Palace after the Second Opium War³⁹. Many cultural objects taken in the pillaging of China remain in western collections, despite Chinese calls for their return⁴⁰.

Both the Mysore Wars and the Opium Wars displayed Britain's disregard for both the sovereignty and cultural property of states outside of Europe. This type of treatment of foreign nations was not unique to Britain though. During the Berlin Conference of 1884 14 European states gathered to partition the Africa, without considering the implications for the sovereignty of nations and peoples of the continent. In what became known as the Scramble for Africa, European states cast a shadow of their power over their less powerful neighbors to the south and plundered the cultural property of the continent whenever conflict arose. The Sarr-Savoy Report of 2018 concluded that 90% of Sub-Saharan African cultural heritage is now in western collections, with the majority of this believed to have been looted between 1884-1914⁴¹. European indifference towards the sovereignty, and by extension the cultural property, of nations outside of Europe plainly shows that Westphalian sovereignty was a concept which only extended to European states, or "civilized nations".

The term and concept of "civilized nations" was a creation of early international law, used by philosophers to denote states which were believed to possess the capacity to act in civilized manners towards each other, including during war. The term itself reflects an antiquated and racist notion based on a perception of the world that saw the West as the only bastion of true civilization. This perception

³³ *ibid*

³⁴ "Looted Tipu Riches as Global Exhibits," Deccan Herald, July 12, 2016, <https://www.deccanherald.com/content/557329/looted-tipu-riches-global-exhibits.html>.

³⁵ *ibid*

³⁶ "Opium Wars | Definition, Summary, Facts, & Causes," Encyclopedia Britannica, accessed May 4, 2021, <https://www.britannica.com/topic/Opium-Wars>.

³⁷ *ibid*

³⁸ *ibid*

³⁹ *ibid*

⁴⁰ "Lessons Learned from the Sacking of the Summer Palace in China: Diplomacy and Restitution Revisited," Center for Art Law, March 3, 2015, https://itsartlaw.org/2015/03/03/ms_restitution/.

⁴¹ "Savoy - The Restitution of African Cultural Heritage. Toward a New Paradigm," 11, accessed May 4, 2021, http://restitutionreport2018.com/sarr_savoy_en.pdf.

was reflected in de Vattel's 1758 treatise, in which he variously likens the Uzbeks and Tatars to ancient Germanic "barbarian" tribes⁴², and asserts that Italy and Spain were justified in their utter destruction of the Barbary Pirate states along the northern coast of Africa⁴³ (de Vattel otherwise did not condone wanton destruction in war⁴⁴).

Even the term "law of civilized nations" implies a less civilized "other" which cannot be relied on to conduct themselves in a civilized fashion. This is reflected in the fact that de Vattel generally stated that only "Christian Nations" were civilized enough to comprehend or respect the law of civilized nations⁴⁵. Given that Europe's perceptions of what could constitute civilization represented a stunted view of the world, it is little surprise why European nation states' actions did not respect the sovereignty or art of other nations and peoples. In spite of this European states still otherwise interacted with African and Asian nations as though they were states in the emerging international society. European states received foreign dignitaries, sent ambassadors, and entered into treaties with these foreign nations. In this sense, states outside of Europe were expected to comply with the law of civilized nations, without being afforded the protections of being treated as civilized.

Another reason for the disconnect between the Europeans states practices with regards to one another as opposed to nations outside of Europe is that in plundering outside nations, is that Europeans simply did not believe they were stealing art. The European approach to art was a very narrow one. "Fine art" consisted of art that was created purely for the purpose of its own beauty. Fine art was not utilitarian and most often no more valuable for its religious aspects than its artistic. It was an end in itself. The cultural property of foreign civilizations, primarily Africa did not fall within this scope. African art was primarily valuable for its spiritual or religious purposes and was often utilitarian as well⁴⁶.

This lack of belief on the part of Europeans that they were looting art is supported by what was done with African art plundered during the Scramble for Africa. Most African artwork was sent back to Europe to be put in ethnological museums, not museums of fine art⁴⁷. Europeans primarily appraised works of African art on its ethnological rather than artistic value. This can be seen in the European treatment of various specific artifacts from the Rosetta Stone to Benin Bronzes. European states may have had stronger qualms about the looting of African and Asian cultural property if they had seen what they were doing as art plunder, instead of collecting "specimens" for science or curiosity's sake. However, the European treatment of African art in particular further reinforced their belief that cultures outside of Europe were simply not civilized enough to be granted the protections of sovereignty, in that such cultures were fit to be studied, but not treated as equals.

This treatment of African and Asian art as ethnological rather than artistic can best be seen in the juxtaposition of the Allied Nations' treatment of Napoleonic loot from Europe and from Africa. Napoleon's campaign in Egypt sparked an interest in Europe for Ancient Egyptian artifacts. During the Egyptian campaign, French soldiers uncovered an artifact that would later be known as the Rosetta

⁴² "DeVattel_LawOfNations.Pdf," 231.

⁴³ *ibid*

⁴⁴ "DeVattel_LawOfNations.Pdf," 433.

⁴⁵ "DeVattel_LawOfNations.Pdf," 231.

⁴⁶ "Tansania Und Die Kolonialzeit - Der Afrikanische Blick," Deutschlandfunk Kultur, accessed May 4, 2021, https://www.deutschlandfunkkultur.de/tansania-und-die-kolonialzeit-der-afrikanische-blick.979.de.html?dram:article_id=441958.

⁴⁷ Carrington, Michael. "Officers, Gentlemen and Thieves: The Looting of Monasteries during the 1903/4 Younghusband Mission to Tibet." *Modern Asian Studies* 37, no. 1 (2003): 81–109. doi:10.1017/S0026749X03001033.

Stone, and had planned to return the slab to France⁴⁸. Before they could, British and Ottoman forces defeated the French army, causing the French to agree to surrender all artifacts they had found in Egypt, including (to the reluctance of France) the Rosetta Stone⁴⁹.

To this day the Rosetta Stone remains in the British Museum, in spite of Egyptian calls for its return⁵⁰. The cultural significance of the Rosetta Stone to Egypt cannot be overstated, as it provided the key to understanding Ancient Egyptian Hieroglyphs, and thus unlocked countless opportunities to study Ancient Egyptian culture. The sharp contrast between how the British treated the cultural property of other Europeans and the treatment of Egypt's cultural property shows how narrow the definition of what Europe considered art was. At a time when the victorious powers in Europe unanimously decided that all plundered works of historic or artistic significance should be returned to their rightful owners, Napoleon's loot from Egypt was conspicuously omitted.

Lastly, while ignorance of other civilizations and their cultural objects explains the European practice of looting the artwork to an extent, there were also circumstances in which European states knew what they were doing was a clear violation of the custom against plunder. [Discussion of the Benin Bronzes⁵¹ and the Elgin/Parthenon Marbles⁵² omitted from excerpt].

The preceding sections show how through ignorance and greed, European states rationalized their plunder of cultural property belonging to nations outside of Europe. This was done in violation of the customary rule against plunder, a rule which European states by the early 19th century accepted as part of the law of civilized nations. However, a skeptic might claim that European states did not intend to be bound by the custom against plunder with regards to nations outside of Europe, and so the acts of looting committed by European states against non-Europeans did not violate the custom. This weaker interpretation of the custom against plunder takes advantage of the racism inherent in the rationales of European states when plundering African and Asian nations, as well as the haziness which can be attributed to customs (due to their unwritten and evolving nature).

Here, I argue in favor of a stronger interpretation of the custom against plunder as it existed during the 19th century. While it is true that de Vattel's 1758 treatise is littered with negative and often stereotyping references to supposedly less civilized people (generally, non-Christian peoples who had come into contact with Europeans), an attitude which pervaded European societies in centuries past, this racism should not be used as grounds for denying peoples who have been wronged a chance at justice.

Customs of international law form through general practice, which typically means the general practice of the most powerful nations. For a centuries-old custom such as that forbidding plunder, this means European states. African and Asian nations which suffered from European plunder had no say in the development of the custom. However, simply because a group of people did not participate in the formation of a custom, does not mean they have no claim under the rights granted by the custom.

It is undeniable that through colonialism and punitive expeditions, European states violated the sovereignty of nations around the world. There should be a similar acknowledgement of the violation by

⁴⁸ Robertson, *Who Owns History?*, 167.

⁴⁹ *ibid*

⁵⁰ Harpreet Bhal, "Egypt to Ask British Museum for Rosetta Stone," *Reuters*, December 14, 2009, <https://www.reuters.com/article/us-britain-egypt-rosetta-idUSTRE5BD2GR20091214>.

⁵¹ Robertson, *Who Owns History?*, 164.

⁵² Miles, *Art as Plunder*, 314.

European states of the custom against plunder. While there is no realistic way to undo the violations of sovereignty perpetrated by European states, restitution is a fitting form of reparations for plundered cultural property still in existence.

The custom as defined by Europeans themselves is one that has always, at the least prohibited the plunder of objects of artistic, scientific, religious, or historic significance. There is no reference, nor could or should there be, to whom this protection extends. Grotius believed that the law of nations was inherently universal, on account of the fact that international society was never simply a collection of European states, but of every state⁵³. Accordingly, laws and customs need to be evenly applied to all states.

Because international law throughout history should be applied universally, it can be said that the law of civilized nations was never simply a set of rules shared among an inner circle of European states. Despite the dismissiveness of foreign cultures scattered throughout his 1758 treatise, de Vattel did not simply write the document as guidebook of which states were and were not worthy of the law of civilized nations. Instead, de Vattel wrote the treatise as a manual for states to follow in relation to one another.

To read de Vattel's antiquated ideas of "civilized nations" as an excuse for the violations of the custom against plunder perpetrated against non-European nations goes against the principles within the 1758 treatise. In the treatise de Vattel denounces:

"illegitimate or informal wars, or rather predatory expeditions without lawful authority or without apparent cause, as likewise without the usual formalities and solely with a view to plunder"⁵⁴

Such behavior, de Vattel argues, is the mark of bandits and pirates, or those peoples which de Vattel considers to be uncivilized⁵⁵. The irony of asserting that the law of civilized nations only applied to "civilized nations" is that it allows supposedly civilized nations to act in manners which would make them uncivilized. The same circumstances described in the above quote could accurately describe the various punitive expeditions taken by European states against non-European states, perhaps most notably the Benin Expedition.

Having established that the custom of international law prohibiting plunder existed in the early 1800's, the question moves to whether there was a violation of this custom by European states through their plunder of non-European states in the same century. The previous sections have shown why European states may not have believed they were violating the custom against plunder, but also how under the stronger interpretation of the custom, this should not matter. The custom at issue has always been a rule forbidding the plunder of the arts, sciences, and historical and religious material. The fact that some European states did not understand their trespass against the custom is irrelevant.

Once it has been established that the European plunder of the cultural property of non-European states constituted a violation of the customary law against plunder, the question then moves to what the remedy should be. As stated earlier in this essay, the *Charzow Factory* case provides that as

⁵³ Kingsbury, Benedict, and Adam Roberts. "Introduction: Grotian Thought in International Relations." In *Hugo Grotius and International Relations*, by Bull, Hedley, Benedict Kingsbury, and Adam Roberts, eds., edited by Hedley Bull, Benedict Kingsbury, and Adam Roberts. Oxford: Oxford University Press, 1992. Oxford Scholarship Online, 2003. doi: 10.1093/0198277717.003.0001.

⁵⁴ Robertson, *Who Owns History?*, 391.

⁵⁵ *ibid*

a general principle of international law states should make reparations for violations of international law, in a manner which best undoes the consequences of the violation⁵⁶. What this implies is that where restitution of looted cultural property is possible, it should be fulfilled.

6. The Human Rights Case for Restitution

* * *

The right to culture is listed in Article 27(1) of the UN Declaration on Human Rights, stating that “everyone has the right to freely participate in the cultural life of their community, to enjoy the arts...”⁵⁷. It is also central to the ICESCR, being mentioned throughout the convention, and specifically in Article 15⁵⁸. The right to self-determination is enshrined in Article 1 of the UN Charter⁵⁹, ICCPR⁶⁰, and ICESCR⁶¹, establishing the right of all peoples to choose their own path to economic, social, and cultural development.

Fundamentally, the human rights codified after World War II exist to ensure that the crimes of the past do not happen in the future, and that all people are guaranteed certain basic rights. Human rights exist for the sake of rectifying an international system that for millennia followed the paradigm of the Melian Dialogue⁶². The right of states to participate in their own culture is one of the most basic rights of states, to be able to enjoy their own culture without interference or undue influence from outside sources. The right to self-determination is one that allows a state to choose their own collective destiny without intrusion. The lack of restitution of cultural property frustrates these rights. Cultural property is the tangible aspect to cultural heritage, which is the link a culture has to its past. Without the repatriation of cultural property, the right to culture cannot be fulfilled, and self-determination is stunted.

[Discussion of the 1970 UNESCO Convention and the 1972 UNESCO World Heritage Convention omitted from excerpt]

The matter of ownership of cultural property can best be understood by looking at the ICJ decision in the *Preah Vihear* case between Cambodia and Thailand⁶³. In this case over the ownership of a temple, the ICJ sided with Cambodia, recognizing its sovereignty over the temple⁶⁴, which has since been declared a world heritage site⁶⁵. The court also ordered Thailand to return any sculptures, ceramics, or other artifacts found within the temple⁶⁶. This was because Cambodia’s sovereignty over the temple extended to the cultural property found within⁶⁷. The significance of this is that individual pieces cultural property is a part of cultural heritage, over which only a single state can be sovereign. Because of this,

⁵⁶ *The Factory at Chorzow (Germany v Poland)* [1928] (Permanent Court of International Justice), p.125.

⁵⁷ United Nations, “Universal Declaration of Human Rights,” United Nations (United Nations), Art 27(1), accessed May 4, 2021, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁵⁸ “OHCHR | International Covenant on Economic, Social and Cultural Rights,” Art 15, accessed May 4, 2021, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

⁵⁹ United Nations, “United Nations Charter (Full Text),” United Nations (United Nations), Art 1, accessed May 4, 2021, <https://www.un.org/en/about-us/un-charter/full-text>.

⁶⁰ “OHCHR | International Covenant on Civil and Political Rights,” Art 1, accessed May 4, 2021, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁶¹ “OHCHR | International Covenant on Economic, Social and Cultural Rights,” Art 1.

⁶² “The Melian Dialogue.”

⁶³ Robertson, *Who Owns History?*, 140.

⁶⁴ *ibid*

⁶⁵ UNESCO World Heritage Centre, “Temple of Preah Vihear,” UNESCO World Heritage Centre, accessed May 4, 2021, <https://whc.unesco.org/en/list/1224/>.

⁶⁶ Robertson, *Who Owns History?*, 140.

⁶⁷ *ibid*

cultural heritage is a matter of sovereignty, and the withholding of cultural heritage intrudes on a state's sovereignty.

[Discussion of decolonization omitted from excerpt]

On the international scale, decolonization occurred because empires could no longer justify their continued dominance over other peoples in the face of the right to self-determination. Colonizing states had a positive obligation to allow the natives of colonized nations to set their own destinies. Empire is anathematic to self-determination, and the continued retention of plundered cultural objects by European powers is a legacy of the colonial era. Now, states that have retained looted cultural property once again have a duty to their former colonies, this time to return artwork so their former subjects can access their cultural heritage and make their own decisions for their cultural development. In a sense, cultural heritage is the "national resource" needed to develop, analogous to how natural resources are required for economic development.

[Discussion of exceptionalism omitted from excerpt]

It is important to note that while the custom against plunder and the aforementioned human rights to culture and self-determination are distinct from one another, there is overlap in what each of the human rights and the custom of international law cover. In addition, both the human rights related to culture as well as the custom against plunder are expanding in scope of what each cover. Just as the custom against plunder has expanded from covering only certain areas such as the arts and sciences, to covering virtually all property, so to have the scope of human rights expanded.

One example of this is in how international bodies have fundamentally seen the right to culture. The right has historically been interpreted as pertaining to individuals rather than communities, on account of the choice of wording ("everyone" as opposed to "all peoples"), however this interpretation has been critiqued as overly narrow. Karima Bennoune has described cultural heritage as a human rights issue⁶⁸. The significance of this is that cultural heritage is the legacy of a culture, and the link a culture has to its past. Describing cultural heritage as an aspect of the right to culture, implies that the right is a collective one, as cultural heritage is something shared by groups of people, not merely experienced by individuals. The preamble of the 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage describes cultural heritage as important to social cohesion and cultural identity⁶⁹. These are clearly terms that clearly refer to a collective, rather than individual right. This makes sense, as does the criticism of interpreting the right to culture as an individual right, as culture is a collective concept. For someone to be able to participate in their culture, a mutual interest in that culture can be implied. This shift to a focus on the collective right to culture is one way in which the human rights has expanded over the years.

The case that could be made for restitution on human rights on human rights grounds is also different from the case which could be made on the basis of the customary law against plunder though. For example, it is arguable that much of customary law is somewhat hazy in its definitions and applications, something which is seen in the judgements of the ICJ⁷⁰. This makes customary law difficult to enforce, even though it is binding on states. This can be seen in how the European violations against

⁶⁸ <https://plus.google.com/+UNESCO>, "Karima Bennoune."

⁶⁹ "2005 - Convention for the Safeguarding of the Intangible .Pdf," accessed May 4, 2021, <https://ich.unesco.org/doc/src/15164-EN.pdf>.

⁷⁰ JOYNER, Daniel H. "Why I Stopped Believing in Customary International Law." *Asian Journal of International Law* 9, no. 1 (2019): 31–45. doi:10.1017/S2044251318000188.

the customary law against plunder mentioned throughout this paper have yet to even be widely recognized as violations.

Another difference between the human rights which related to plundered cultural property and the customary law against plunder is what each cover in scope. The customary law against plunder only concerns actions by states during wartime, whereas human rights to culture and self-determination have no such criterion. What this means is that for a violation of either human right to be established, one does not also need to establish that the violation occurred as an act of war looting. Thus, a case could be made for restitution under human rights for pieces which acquired in ways which only ambiguously come under the custom against plunder, such as the Elgin Marbles or other cultural objects taken through inequitable practices such as partage.

Partage was a system in which European archeological teams would finance digs in African and Asian countries vowing to split the findings fairly with either the local peoples or the colonial governors, with half of the find remaining in the country in which the dig occurred⁷¹. However, the archeological team would often falsify manifests documenting what they had found, in order to retain the best pieces for themselves. One such example of this was when a team of German archeologists discovered the bust of Nefertiti in Egypt in 1812⁷². Although the bust of Nefertiti is one of the most intact and impressive artifacts originating in Egypt, the archeologists submitted documents to the authorities which downplayed the value of the bust⁷³, falsely claiming it was made of gypsum⁷⁴ in order to return to Germany with the bust. To this day the Nefertiti Bust remains in the Neues Museum in Germany⁷⁵. This is but one example of cultural property which was taken from its rightful owners by practices which did not directly conflict with the custom against plunder, but where the continued retention of the cultural object could be considered an ongoing violation of the rights to culture and self-determination.

The right to self-determination and the right to culture are linked and should be thought of as symbiotic in order to achieve the goal of allowing people to choose their cultural development, and then be able to enjoy it. At present, states are deprived of their cultural heritage, frustrating both rights. That European states continue to benefit through the display of cultural property which the cultural objects' state of origin cannot access further strengthens the human rights case for restitution as the only adequate solution. Without their cultural heritage, states cannot access their ancestors' legacies, harming their right to culture and inhibiting their future cultural development.

7. **Paths to Restitution**

The sections on customary international law and human rights should make clear that there is a legal case to demonstrate that the plunder and continued retention of cultural property amounts to violations of international law, and that by the application of the *Charzow Factory* precedent, restitution is the only suitable remedy. That said, it is unlikely that such a case would be made, either in a domestic court or before an international tribunal.

⁷¹ Staatliche Museen zu Berlin, "Staatliche Museen Zu Berlin: Discovery and Partage," Staatliche Museen zu Berlin, accessed May 4, 2021, <https://www.smb.museum/en/museums-institutions/aegyptisches-museum-und-papyrussammlung/collection-research/bust-of-nefertiti/discovery-and-partage/>.

⁷² *ibid*

⁷³ *ibid*

⁷⁴ *ibid*

⁷⁵ *ibid*

Hypothetically, a case on the abovementioned grounds could be brought before the ICJ. However, as the jurisdiction of the ICJ is derived from state consent, it is improbable that such a case would come before the ICJ. In section 1(ii) of their declaration recognizing the jurisdiction of the ICJ, the UK (one of the most prolific looters and hoarders of other states' cultural property) does not accept the jurisdiction of the court on matters arising between the UK and a present or past member of the Commonwealth⁷⁶. As the Commonwealth is a grouping of former British colonies, and therefore the states most likely to have a claim for restitution against the UK, the ICJ will most likely not have jurisdiction over the matter.

While the UK could in theory waive their reservation, this is also unlikely. The UK has so far refused to consider even non-binding mediation with Greece over the Parthenon Marbles⁷⁷. The possibility that the UK would consent to the jurisdiction of the ICJ on that matter is slim, to say the least. However, as Australian barrister Geoffrey Robertson has suggested, the General Assembly or the Security Council could refer the matter of restitution to the ICJ for an advisory opinion⁷⁸ (though it is unlikely that the Security Council would, given that both France and England are members of the permanent five). The General Assembly has in the past voted to recommend the restitution of looted cultural property⁷⁹, so the prospect is not unimaginable. While an advisory opinion would not be binding on states, it would set the moral tone of international law on the matter. In addition, it would allow the ICJ the opportunity to recognize that the customary law against plunder has existed for centuries. While this would likely not lead to immediate restitution, it would further the cause greatly.

The possibility of obtaining justice and restitution in domestic European courts, is all but futile. In both England and France, laws exist specifically prohibiting the restitution of artwork in their national museums, where most looted art is kept.

In England, the British Museum is precluded from parting with any of its pieces. This is due to the British Museum Act of 1963⁸⁰. Section 3(1) of this Parliamentary act states that the British Museum has a duty to keep all objects in its stewardship. Section 5(2) prohibits the British Museum from disposing of objects (including giving them away), unless the object is damaged, deteriorated in quality or a fake⁸¹. As a public museum, everything inside the British Museum is technically property of the Queen, and not for the British Museum to give away. However, as Parliament is sovereign in the UK, even with the blessing of the Monarchy the British Museum could not return any of the items in its care on account of the law. This means that the only way for suit or campaign to succeed against Britain for the restitution of artwork housed in the British Museum is for Parliament to change the law. The current Prime Minister, Boris Johnson has suggested will not happen in the near future⁸².

⁷⁶ "United Kingdom of Great Britain and Northern Ireland | Declarations Recognizing the Jurisdiction of the Court as Compulsory | International Court of Justice," accessed May 4, 2021, <https://www.icj-cij.org/en/declarations/gb>.

⁷⁷ Robertson, *Who Owns History?*, 153.

⁷⁸ Robertson, 154.

⁷⁹ Expert Participation, "British Museum Act 1963," Text (Statute Law Database), accessed May 4, 2021, <https://www.legislation.gov.uk/ukpga/1963/24/contents>.

⁸⁰ Participation, sec. 3(1).

⁸¹ Participation, sec. 5(2).

⁸² "Boris Johnson Rules out Return of Parthenon Marbles to Greece," the Guardian, March 12, 2021, <http://www.theguardian.com/artanddesign/2021/mar/12/boris-johnson-rules-out-return-of-parthenon-marbles-to-greece>.

Similarly in France the French Heritage Code considers works of art to be an inalienable right of the citizens of France⁸³. While the French Assembly did agree in December 2020 to repatriate 27 cultural objects to Benin and Senegal, they made sure to state in no uncertain terms that the act would not create a precedent⁸⁴. Legally, there is little recourse, primarily because as stated above, French law considers it an absolute right of heritage of the French public to enjoy works of art⁸⁵, regardless of where they originated.

Public and intellectual pressure on states to repatriate looted artifacts is growing, something which has so far had the greatest effect on the effort for restitution. Using pressure in the effort for repatriation has gained momentum in recent years, largely due to the Sarr-Savoy Report. Determined to take steps towards restitution, the French President Macron commissioned the report studying African cultural property in western collections and giving advice on what actions to take in 2018⁸⁶.

The report concluded that upwards of 90% of Sub-Saharan African material cultural heritage is housed outside of Africa, the majority of these artifacts having been stolen⁸⁷. The first of two most significant recommendations made by the report was that European states and museums should enter into bilateral arrangements with African countries with a goal of repatriating some of the stolen art to its proper seats⁸⁸. The second recommendation concerns the fact that much of African art has dubious provenance, which makes it difficult to prove one way or the other the legitimacy of the acquisition. Currently, if an individual seeks to reclaim a piece from any museum under the assertion that it was stolen, their first step must be to prove it was stolen. The second recommendation of the report is that the burden of proof should be on museums to prove that their pieces were not stolen⁸⁹.

The report has had a ripple effect throughout Europe, with many states and museums being confronted with the question of what to do with plundered art. While the response of the French public has been mixed⁹⁰, museums in Germany⁹¹ and the Netherlands⁹², have been prompted by the report to vow to repatriate all stolen cultural property. Benedicte Savoy, one of the authors of the report, has claimed that the Black Lives Matter protests have furthered the cause for restitution in France⁹³. Given this, intellectual and public pressure can have the effect of “shaming” states which retain plundered cultural property.

Pressure and recognition by the United States would also be of no small assistance to the cause for restitution. Despite the decline in international regard for the US in recent years, the influence of the USA is still vast. It would do the America’s wounded reputation credit to usher in an era that saw the

⁸³ “France • International Art and Heritage Law • European University Institute,” accessed May 4, 2021, <https://www.eui.eu/Projects/InternationalArtHeritageLaw/France>.

⁸⁴ “French Restitution Bill Passes Final Hurdle in Parliament,” accessed May 4, 2021, <http://www.theartnewspaper.com/news/french-restitution-bill-passes-final-hurdle-in-parliament>.

⁸⁵ “France • International Art and Heritage Law • European University Institute.”

⁸⁶ “Savoy - The Restitution of African Cultural Heritage. Towa.Pdf,” accessed May 4, 2021, http://restitutionreport2018.com/sarr_savoy_en.pdf.

⁸⁷ “Savoy - The Restitution of African Cultural Heritage. Towa.Pdf,” 11.

⁸⁸ “Savoy - The Restitution of African Cultural Heritage. Towa.Pdf.”

⁸⁹ *ibid*

⁹⁰ Didier Rykner, “Emmanuel Macron met fin à l’inaliénabilité des collections publiques,” *La Tribune de l’Art*, May 4, 2021, <https://www.latribunedelart.com/emmanuel-macron-met-fin-a-l-inalienabilite-des-collections-publiques>.

⁹¹ Christopher F. Schuetze, “Germany Sets Guidelines for Repatriating Colonial-Era Artifacts,” *The New York Times*, March 15, 2019, sec. Arts, <https://www.nytimes.com/2019/03/15/arts/design/germany-museums-restitution.html>.

⁹² Sarah Cascone, February 4, and 2021, “The Dutch Government Just Promised to Return Any Stolen Colonial-Era Objects in Its Collections Back to Their Countries of Origin,” *Artnet News*, February 4, 2021, <https://news.artnet.com/art-world/netherlands-restitution-guidelines-1941734>.

⁹³ “Black Lives Matter Movement Is Speeding up Repatriation Efforts, Leading French Art Historian Says,” accessed May 4, 2021, <http://www.theartnewspaper.com/news/black-lives-matter-movement-is-speeding-up-repatriation-efforts>.

return of cultural heritage to its ancestral homes. It would not require a change of the US recognition on the matter of restitution of cultural property, as the US already has in place laws for domestic restitution of looted cultural property.

In 1990, the United States passed the Native American Graves Protection and Repatriation Act (NAGPRA), ensuring that Native American cultural property including artwork and human remains would be returned to the relevant tribe⁹⁴. NAGPRA also made it a federal crime to involve oneself in the disturbance of burial sites or the trafficking of Native American cultural objects⁹⁵. With this, the United States government took a principled stand against the looting of cultural property and in favor of the restitution of artwork plundered in the past. Because of this, the US would not need to change its philosophy to recognize that cultural heritage is necessary to the enjoyment of the right to culture, or that restitution is a necessary aspect of reparations.

The significance of the United States' unique position in being ahead of the curve in the matter of restitution is that it maintains a greater moral authority on the matter than states refusing to repatriate cultural property. Just as the United States had taken a stand against recolonization in the wake of WWII⁹⁶, the US has the advantage of the moral high ground combined with the most international political clout in western civilization. The US could leverage this capability to pressure its cultural cousins into repatriating plundered cultural property.

Another way in which the US could aid the ongoing cause for restitution would be to allow states possessing stolen property to be sued in US courts. While the issue of sovereign immunity would arise in this context, the US has for centuries recognized that there are limitations to this. In the *Schooner Exchange* case, the Supreme Court ruled that foreign sovereigns are not necessarily entitled to immunity in the Common Law but are generally granted it as a matter of grace and comity⁹⁷. While this had the practical effect of absolute immunity for foreign sovereigns in US courts, the fact that in theory the US *could* have jurisdiction over sovereigns left the door open for reform. In 1952, the US adopted a restrictive immunity approach under the Tate Letter⁹⁸. This granted states immunity for *jure imperii* (acts of state) but not *jure gestionis* (private acts or acts of business).

This was revised in 1976, when Congress passed the Foreign Sovereign Immunities Act (FSIA) which codified the US position on granting immunity to foreign nations in the United States⁹⁹. The FSIA lays out in specific statutory language when a state does and does not have immunity in US courts. Under the expropriations exception of the FSIA, foreign states are not immune from suit in the United States for crimes which violated the rights of property in international law¹⁰⁰. In the case of *Austria v Altmann*, this exception was interpreted to apply retroactively, meaning states were not immune for

⁹⁴ "Native American Graves Protection and Repatriation Act (U.S. National Park Service)," accessed May 4, 2021, <https://www.nps.gov/subjects/nagpra/index.htm>.

⁹⁵ *ibid*

⁹⁶ Grant Piper, "Dutch Disaster In Indonesia," Medium, September 12, 2020, <https://medium.com/exploring-history/dutch-disaster-in-indonesia-a5a59d9fe533>.

⁹⁷ *The Exchange v. McFaddon*, 11 U.S. 7 Cranch 116 116 (1812)

⁹⁸ "Tate Letter." In *Encyclopaedic Dictionary of International Law*, edited by Grant, John P., and J. Craig Barker. : Oxford University Press, 2009. <https://www.oxfordreference.com/view/10.1093/acref/9780195389777.001.0001/acref-9780195389777-e-2227>.

⁹⁹ "28 U.S. Code Chapter 97 - JURISDICTIONAL IMMUNITIES OF FOREIGN STATES," LII / Legal Information Institute, accessed May 4, 2021, <https://www.law.cornell.edu/uscode/text/28/part-IV/chapter-97>.

¹⁰⁰ "28 U.S. Code § 1605 - General Exceptions to the Jurisdictional Immunity of a Foreign State," LII / Legal Information Institute, accessed May 4, 2021, <https://www.law.cornell.edu/uscode/text/28/1605>.

acts which came under the expropriations exception even if the acts occurred prior to the passing of the FSIA¹⁰¹.

The relevance of this law to the restitution of artwork taken as plunder is more in the realm of possibilities than in present reality. Most of the cultural property looted by colonial powers was looted over a century ago. The FSIA defers to the relevant statute of limitations of the choice of law in assessing whether a claim can be brought¹⁰². Given this, it seems unlikely that any state or group would be able to bring a successful claim against another state for the restitution of looted art at present. However, if a US state were to extend its statute of limitations specifically for the theft of cultural property, it could allow parties to bring claims against states such as England and France for the restitution of art which was looted in violation of international law. If this were the case, then a claim could be brought for the plunder of cultural property dating back centuries. While matters of forum and other procedural issues would arise, the possibility of using the FSIA to bring a claim against states retaining looted cultural property is at least worthy of consideration.

The most feasible solution to see restitution is likely a combination of the avenues described above. A general acknowledgement that the plunder and retention of cultural property is in violation of international law is needed, which the best way to achieve is through recognition from numerous domestic tribunals, or ideally the ICJ. Also needed is the application of public and intellectual pressure on states which retain stolen cultural property to repatriate. At present states such as Britain and France, which each house much of the world's looted cultural property, simply need to maintain the status quo. Active pressure is needed to at the very least force them to the negotiating table. The leadership of the United States on the matter would further both the recognition and pressure needed to achieve restitution.

Conclusion [Omitted from Excerpt]

Bibliography [Omitted from Excerpt]

¹⁰¹ *Austria v Altmann* 541 US 677 (2004)

¹⁰² *Gilson v. Republic of Ireland*, 787 F.2d 655 (D.C. Cir. 1986)

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The Honorable Judge Irma C. Ramirez,

I am a third-year law student at Washington and Lee University School of Law, and I am writing to apply for a clerkship in your chambers in the Northern District of Texas. As a student interested in public service and litigation, I am particularly interested in the opportunity to work on and justly resolve a variety of cases and complex legal issues in your chambers. I believe my academic experience, diverse work experience, well-developed interpersonal and communication skills, and strong work ethic make me an ideal candidate for this position.

I have the broad legal background necessary to excel as your law clerk. I have experience in both transactional and litigation practices; this has exposed me to a wide variety of legal issues and enabled me to conduct sophisticated analysis in any legal area. During my summer internship at Preston & Malcom, P.C. I strengthened my research and analytical reasoning skills as I had to draft memos relating to novel procedural issues as a result of the COVID-19 pandemic. While at Moore & Van Allen, I was exposed to finance transactional practice, ranging from lender side loaning to representing lenders in financial restructuring. This forced me to hone my ability to learn about new areas of law as I quickly developed the base knowledge to be useful on projects. Lastly, my experience at the Department of Justice has strengthened my litigation skills as I have performed research and drafted documents for various stages of the litigation process. I will rely on these experiences as I undertake the important work of assisting in your chambers.

In addition to my academic and work background, I have strong interpersonal and communication skills, a strong work ethic, and enjoy collaborative work. Prior to law school, I worked in the European Parliament for Dr. Roberta Metsola of Malta, working closely with her European office while also communicating with her office in Malta. Dr. Metsola enlisted her staff to pursue two goals: being a productive and proactive representative in Europe and getting reelected at home. In order to help achieve these goals, I worked with her European office by preparing memos on legislation and communicating with other offices on her behalf. I also communicated with her Malta office about meetings on her trips home, speeches, and issues present in Parliament. Through this, I developed the ability to communicate clearly and effectively, despite the occasional language barrier. I also received the first-hand satisfaction of seeing months of hard work pay off, as Dr. Metsola passed significant legislation and won her re-election campaign. The fast paced, highly demanding, and diverse work exposure I experienced in Roberta Metsola's office will transfer to the environment I would experience in chambers. For these reasons, I believe I would be a strong candidate for a clerkship.

I would be pleased to have the opportunity to discuss my background and skills with you in further detail. I can be reached at 706-338-0080 or brown.j23@law.wlu.edu. Thank you in advance for your consideration, and I look forward to hearing from you.

Sincerely,
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Moore & Van Allen PLLC	Charlotte, North Carolina
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<ul style="list-style-type: none"> Draft Amended & Restated Credit Agreement adding new revolving line of credit for lender. Assist with drafting closing documents for a new credit agreement. Prepare internal firm report related to novel issue regarding material breaches of contract. Received return offer. 	
Preston & Malcom, P.C.	Monroe, Georgia
<i>Summer Associate</i>	<i>May 2021-August 2021</i>
<ul style="list-style-type: none"> Research issues for cases and prepare memos explaining the applicable law. Assist attorneys in interpreting the law for litigation and developing best litigation strategies. Aid attorneys in document preparation for various stages of litigation. 	
Professor Jill Fraley	Lexington, Virginia
<i>Research Assistant</i>	<i>May 2021-August 2021</i>
<ul style="list-style-type: none"> Research eminent domain cases in Guam for instances of injustice or disproportional affects. Communicate with Professor Fraley on findings, research methods, and potential uses of findings. 	
The Riley Institute	Greenville, South Carolina
<i>Advance Team Member</i>	<i>Fall 2019-Spring 2020</i>
<ul style="list-style-type: none"> Invite speakers to campus and plan policy related events. Brief the team on current events at bi-weekly meetings. 	
American Enterprise Institute Executive Council	Greenville, South Carolina
<i>Council Co-Chair</i>	<i>Fall 2018-Spring 2020</i>
<ul style="list-style-type: none"> Bring speakers to campus for events on Public Policy. Co-Lead Reading Group discussing current issues. 	
Office of Member of European Parliament Roberta Metsola	Brussels, Belgium
<i>Spring Intern</i>	<i>Spring 2019</i>
<ul style="list-style-type: none"> Brief Dr. Metsola on upcoming meetings and pending legislation. Research relevant legislation for Dr. Metsola. Draft weekly memorandum for Dr. Metsola on United States politics. 	

Personal

Community Service: Volunteered with underprivileged youth throughout undergrad
Interests: Music, Outdoors, Georgia Sports, Reading, Weightlifting

WASHINGTON AND LEE UNIVERSITY

OFFICE OF THE UNIVERSITY REGISTRAR

Lexington, Virginia 24450-2116

540.458.8455

SSN: ***--8234
Student ID: 1744874
Birthdate: 07/16/****

Student's Name: Mr. Jackson E. Brown
Brown, Jackson E.

Entered: 08/17/2020 as LAW:FIRST-YEAR STU

Major:

Current Program: Law

Current Status: On Campus

Date Produced: 01/05/2023

Class: 2023

Other Ed: BA FURMAN UNIVERSITY Greenville SC 29613

COURSE							ATT				COM GRADE POINTS				COURSE							ATT				COM GRADE POINTS			
LAW-FALL SEMESTER 2020-21														LAW-FALL SEMESTER 2022-23															
LAW	109	CIVIL PROCEDURE	4.0	4.0	B	12.00	LAW	707B	SKILLS IMMERSION: BUSINESS	2.0	2.0	P	0.00																
LAW	140	CONTRACTS	4.0	4.0	B+	13.32	LAW	933	WORKING IN LAW EXTERNSHIP	2.0	2.0	A-	7.34																
LAW	163	LEGAL RESEARCH	0.5	0.5	B+	1.67	LAW	933F	WORKING IN LAW FIELD PLACEMENT	10.0																			
LAW	165	LEGAL WRITING I	2.0	2.0	B	6.00	LAW	971	JOURNAL/CIV RGTS & SOC JUST:3L	1.0																			
LAW	190	TORTS	4.0	4.0	B+	13.32	Term	Cmpl Cr:	4.0	GPA Pts:	7.34	GPA Cr:	2.0	GPA:	3.670														
Term	Cmpl Cr:	14.5	GPA Pts:	46.31	GPA Cr:	14.5	GPA:	3.194	Cumul	Cmpl Cr:	65.0	GPA Pts:	190.98	GPA Cr:	58.0	GPA:	3.293												
Cumul	Cmpl Cr:	14.5	GPA Pts:	46.31	GPA Cr:	14.5	GPA:	3.194	***** END OF TRANSCRIPT *****																				
LAW-SPRING SEMESTER 2020-21														LAW-SPRING SEMESTER 2022-23 CURRENT OR FUTURE REGISTRATION															
LAW	130	CONSTITUTIONAL LAW	4.0	4.0	B+	13.32	LAW	710	SECURITIES REGULATION	3.0																			
LAW	150	CRIMINAL LAW	3.0	3.0	B+	9.99	LAW	750	CORE SKILLS AND CONCEPTS	3.0																			
LAW	163	LEGAL RESEARCH	0.5	0.5	B+	1.67	LAW	781	TAX OF PARTNERSHIPS AND LLCs	3.0																			
LAW	166	LEGAL WRITING II	2.0	2.0	C+	4.66	LAW	876	E-COMMERCE PRACTICUM	3.0																			
LAW	179	PROPERTY	4.0	4.0	B+	13.32	LAW	971	JOURNAL/CIV RGTS & SOC JUST:3L	1.0																			
LAW	195	TRANSNATIONAL LAW	3.0	3.0	A-	11.01																							
Term	Cmpl Cr:	16.5	GPA Pts:	53.97	GPA Cr:	16.5	GPA:	3.271																					
Year	Cmpl Cr:	31.0	GPA Pts:	100.28	GPA Cr:	31.0	GPA:	3.235																					
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LAW	201	ADMINISTRATIVE LAW	3.0	3.0	P	0.00																							
LAW	216	BUSINESS ASSOCIATIONS	4.0	4.0	B-	10.68																							
LAW	285	EVIDENCE	3.0	3.0	B-	8.01																							
LAW	371	NATIONAL SECURITY LAW	2.0	2.0	B	6.00																							
LAW	382	NEGOT A JOINT VENTURE IN CHINA	1.0	1.0	B+	3.33																							
LAW	383	MASS ATROCITIES SEMINAR	2.0	2.0	A	8.00																							
LAW	570	JOURNAL/CIV RGTS & SOCIAL JUST	1.0	1.0	CR	0.00																							
Term	Cmpl Cr:	16.0	GPA Pts:	36.02	GPA Cr:	12.0	GPA:	3.002																					
Cumul	Cmpl Cr:	47.0	GPA Pts:	136.29	GPA Cr:	43.0	GPA:	3.170																					
LAW-SPRING SEMESTER 2021-22																													
LAW	264	CYBERSECURITY & PRIVACY SEM	2.0	2.0	A	8.00																							
LAW	307	GLOBAL ENV GOV: LAW, ECON, POLICY	3.0	3.0	A-	11.01																							
LAW	385P	NEGOTIATION/CONFLICT RES PRAC	2.0	2.0	A-	7.34																							
LAW	390	PROFESSIONAL RESPONSIBILITY	3.0	3.0	B+	9.99																							
LAW	428P	TRIAL ADVOCACY PRACTICUM	3.0	3.0	A-	11.01																							
LAW	570	JOURNAL/CIV RGTS & SOCIAL JUST	1.0	1.0	CR	0.00																							
Term	Cmpl Cr:	14.0	GPA Pts:	47.35	GPA Cr:	13.0	GPA:	3.642																					
Year	Cmpl Cr:	30.0	GPA Pts:	83.37	GPA Cr:	25.0	GPA:	3.335																					
Cumul	Cmpl Cr:	61.0	GPA Pts:	183.64	GPA Cr:	56.0	GPA:	3.279																					

(continued in next column)

Registrar

PAGE 1 of 1

WASHINGTON AND LEE UNIVERSITY
SCHOOL OF LAW
LEXINGTON, VA 24450

January 25, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

By way of introduction, I am currently serving as an Adjunct Professor of Law at the Washington & Lee University School of Law in Lexington, Virginia. My courses include topics covering National Security Law & Practice, Cyber Law, Privacy Law, and Legal Ethics (a/k/a Professional Responsibility). I served with the U.S. Department of Justice for thirty years as an Assistant U.S. Attorney and as a Senior Trial Attorney, National Security Division. As a federal prosecutor, I had the responsibility of preparing and submitting hundreds of court pleadings, briefs, and litigation memoranda, as well as reviewing the same – both as a litigant and internally as a supervisor. As you well know, my work included presenting and observing oral arguments.

I strongly recommend that you consider and select Mr. Brown to serve as a Law Clerk. Based upon my interactions with, and observations of, him during the Cyber and Privacy Law seminar, Mr. Brown has a vibrant intellectual character, is forward thinking with an engaging curiosity, possesses a strong ethical character and commitment to honor, and displays a strong respect for the law and others around him.

Throughout the progression of our seminar, I was impressed that Mr. Brown consistently sought – with positive attitude and humor - to contribute not just with observant questions, but also thoughts and arguments on various points that were part of our discussions. And on occasion he would venture with words to the effect that “I might be advancing a question (or observation) somewhat contrary to what seems the ordinary view, but why...” - which I always appreciated.

Our seminar required the submission of a lengthy research paper on a topic individually chosen by the student. Mr. Brown's writing was notable for taking on a challenging and important topic, namely how to define and protect a “right to privacy” in the (virtually non-existent federal regulatory oversight) cyber world. A topic of great import in the ever expanding world of social media, commercial data surveillance and exploitation. His written work was thoughtful, very articulate, and demonstrated a notable level of quality and style.

Mr. Brown would be an excellent selection who would, I'm confident, apply both dedication, hard work, and an ethical, principled measure of careful consideration in service to your Chambers. I appreciate your attention and consideration to this matter.

Very respectfully,

/s/

Wm Mackie
Adjunct Professor of Law
National Security and Cyber Law
wmackie@wlu.edu

Will Mackie - wmackie@wlu.edu

January 25, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

I write to enthusiastically recommend Jackson Brown for the position of Judicial Law Clerk. Jackson's enthusiasm for learning new and highly nuanced areas of law and his ability to do so quickly will make him an asset to your chambers.

I am Aneesa Ahmed, a Trial Attorney at the United States Department of Justice, Office of Immigration Litigation—District Court Section. I was Jackson's mentor for the Fall 2022 semester during which he served as a full-time intern in our Section.

That Jackson opted to work for our Section full-time demonstrates his maturity and a deep commitment to his professional growth that is rare amongst law students. During his time in our Section, Jackson performed substantive legal work that encompassed the vast variety of projects that we undertake as litigators. Jackson performed extensive legal research, drafted privilege logs asserting defenses to discovery production, and crafted legal arguments for dispositive motions. One particularly remarkable project was a motion to dismiss that Jackson drafted in its entirety. The reviewing attorney made only minimal edits to Jackson's draft, and after submission, the opposing party withdrew their complaint due to the strength of Jackson's motion, primarily because of his masterful discussion of the controlling case law and dissection of the complaint. During his capstone moot argument, Jackson distinguished himself when he presented his dismissal motion before a panel of six trial attorneys, an assistant director, and the director of our Section. Jackson's presentation was as professional as that of a seasoned attorney, and he received highly positive feedback regarding his oral advocacy. Specifically, the panel was impressed with Jackson's ability to explain a complex area of immigration law clearly and concisely, cite and recount the relevant case law, and skillfully and gracefully answer questions regarding hypothetical situations. I can confidently say that out of all of our interns that semester, Jackson's work was the strongest.

In addition to his professional skills, Jackson is inquisitive, an attentive listener, and readily undertakes new challenges. I am certain that he will be a productive member of any team.

Please do not hesitate to contact me at 202-451-7744 or Aneesa.Ahmed@usdoj.gov if you have any questions. I would be more than happy to further elaborate on my time working with Jackson.

Sincerely,
Aneesa Ahmed
Trial Attorney
United States Department of Justice

Aneesa Ahmed - Aneesa.Ahmed@usdoj.gov

WASHINGTON AND LEE UNIVERSITY
SCHOOL OF LAW
LEXINGTON, VA 24450

January 25, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

I write this letter of recommendation for Jackson Brown in reference to his candidacy for judicial clerkships. I have tremendous enthusiasm for Jackson, his abilities, and his fit with a clerkship.

I've gotten to know Jackson quite a bit over the past few years as a student at W&L Law School.

In terms of teaching, let me focus on his superlative performance in my research seminar on Mass Atrocity and International Law. This is a discussion-based research seminar in which students teach a full class and author an academic research paper. Jackson performed extraordinarily well. His paper was entitled *In Search of a Better Cambodia*. In it, Jackson penned a law-literature article about the experiences of a fictional character he named Arun Chan along his path to conscription and brainwashing into the Khmer Rouge. Jackson set out in wonderful poignancy the pressures of family and circumstance, as well as the effects of committing violence on the soul of those thusly recruited. This paper mapped brilliantly onto the complex set of variables and emotions that the law has to apply to when judging acts of mass violence, and assessing the culpability of individual actors and perpetrators. These are the questions to which Jackson turned at the end of his paper, and his approach sets out these dilemmas, ambiguities, and certainties in brilliant fashion. I was extremely impressed. His writing is clear and cogent. He would be an excellent clerk in light of his insights into law, his fidelity to law as it is, and also his ability to conceptualize where law might go. It struck me as a perfect balance between the qualities of predictability, history, and purposiveness that befits high quality common law legal analysis. In the end, he received the highest grade possible in this seminar, namely, an A. As I mentioned earlier, I also have all the students teach an entire class in small groups. Jackson has a very effective teaching style – he is an able communicator, with a great capacity to engage listeners and provide accessible yet challenging information. His oral communication skills are on a par of the highest quality as his written ones.

I also taught Jackson in another small research seminar called Global Environmental Governance. Similarly, this course involves preparation and submission of a research paper. In this seminar, Jackson wrote about *The Call of the Cod*. In this paper he addressed the realities of how environmental policies to protect threatened species affect individuals whose livelihoods are built around the harvesting of those species – in this case, the cod fisheries along the north eastern coast of North America. Jackson points to the tension between small-scale fishermen, whose practices may be deeply sustainable, and large commercial enterprises whose practices may be far more short-term oriented and whose extensive fishing leads to depletion. These enterprises are not built around local cultures and lifestyles yet threaten these along with the environment and the sustainability of the targeted species. In the end, Jackson addresses the place of small-scale fishermen in national conversations with regulators and environmentalists who may not granularly discern between their needs and the wants of large-scale commercial fisheries. In this course, Jackson received an A-.

In addition to academic excellence Jackson leaves law school with an array of experiences in transactional and litigation practices. While at law school, he supports student life through his participation in the International Law Society, the Christian Legal Society, and as the Senior Articles Editor of the *Journal of Civil Rights and Social Justice*.

Jackson is a genuinely nice person. He is easy to get along with, affable, interesting, and interested. He is someone that will greatly benefit from a clerkship and will carry tremendous co-operative and supportive energy into your work and the work of every other member of your team.

I can't recommend him highly enough for the position. Thank you for your time. Please let me know at your convenience if you would like to discuss his candidacy further.

Sincerely,

Mark A. Drumbl
Class of 1975 Alumni Professor of Law and
Director, Transnational Law Institute

Mark Drumbl - drumblm@wlu.edu - 540-458-8531

Writing Sample

The attached writing sample is the substantive argument of a defendant’s motion to dismiss I wrote during my time with the Department of Justice: Office of Immigration Litigation. The filing pages, table of contents, and certificate of receipt have been removed for spacing purposes. The heading titled “Prayer for Relief” has been added as a break between this paragraph and the beginning of the argument, however, that heading was not present in the original filing. This sample went through two rounds of editing where minor edits from the overseeing attorney were incorporated to the Motion. An attorney asked me to research and then write a motion to dismiss for this case, centered around an alleged denial of rights of citizenship rising from a denied passport application, which was pending at the time. The Motion was filed in the Southern District of Texas, Houston Division. Following receipt of the Motion, Plaintiffs filed a Voluntary Dismissal of the case.

PRAYER FOR RELIEF

Defendants move to dismiss Plaintiff’s Complaint for lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) because the five-year statute of limitations for the asserted statutory cause of action under 8 U.S.C. § 1503(a) expired before Plaintiff filed this lawsuit.

I. STATEMENT OF ISSUES

1. Whether the Court may exercise jurisdiction over Plaintiff’s Complaint under 8 U.S.C § 1503(a) when Plaintiff failed to commence his action within the applicable five-year statute of limitations after the first denial of his passport application.
2. Whether the Court may exercise jurisdiction over Plaintiff’s Complaint solely under the Declaratory Judgment Act, 28 U.S.C. § 2201, where it lacks jurisdiction to hear claims under the underlying causes of action.

II. SUMMARY OF THE ARGUMENT

Plaintiff Cesar Leonel Olvera (“Plaintiff”) seeks a declaratory judgment from this court pursuant to 8 U.S.C. § 1503(a) (“Denial of rights and privileges as a national”), declaring the Plaintiff to be a U.S. citizen by virtue of birth in the United States. ECF No. 1, Compl. ¶¶ 20–21 & Prayer for Relief. Despite Plaintiff’s allegations in the Complaint, U.S. Department of State (“Department”) records indicate that Plaintiff’s first passport application filed with the Department was denied more than five years ago, and 8 U.S.C § 1503(a) provides that “[a]n action under this subsection may be instituted only within five years after the final administrative denial of such right or privilege.” Plaintiff’s first passport application was submitted on June 3, 2009 and denied on June 25, 2010. U.S. Dep’t. of State Denial Letter (June 25, 2010), (“2010 Denial”) (attached as Exhibit A).¹ As Plaintiff’s first application was denied more than five years ago, Fifth Circuit case law mandates dismissal. *See Gonzalez v. Limon*, 926 F.3d 186, 190 (5th Cir. 2019); *see also Vasquez v. Pompeo*, 467 F. Supp. 3d 466, 472–473 (S.D. Tex. 2020). Moreover, the Declaratory Judgment Act, 28 U.S.C. § 2201, *see* Compl. ¶¶ 1, 21 (Prayer for Relief ¶ 2), cannot serve as an independent source of subject-matter jurisdiction where there is no jurisdiction to entertain the underlying causes of action under § 1503. *See Gaar v. Quirk*, 86 F.3d 451, 453 (5th Cir. 1996).

III. BACKGROUND

Plaintiff challenges the U.S. Department of State’s denial of his passport application by seeking a declaratory judgment from this Court pursuant to 8 U.S.C. § 1503(a). *See generally* Compl. Plaintiff alleges U.S. citizenship by birth, claiming he was born in Brownsville, Texas on June 12, 1990. *Id.* ¶¶ 4, 10, 13, 16, 23. Olvera has both a U.S. birth certificate and a Mexican birth certificate, the latter stating that he was born in Matamoros, Tamaulipas, Mexico. U.S. Dep’t. of

¹ Because Defendants make a factual attack on the Court’s subject-matter jurisdiction, consideration of matters outside the pleadings is appropriate. *See Paterson v. Weinberger*, 644 F.2d 521, 523 (5th Cir. 1981) (“If a defendant makes a ‘factual attack’ upon the court’s subject matter jurisdiction over the lawsuit, the defendant submits affidavits, testimony, or other evidentiary materials.”).

State Denial Letter, at 2 (November 4, 2014) (“2014 Denial”) (attached as Exhibit B).

On June 3, 2009, Olvera applied for a U.S. passport. *See* 2010 Denial at 1. On July 29, 2009, the State Department notified Olvera of the need to submit more information to support his claim of birth. *Id.* at 2.² The Department notified Olvera again on November 4, 2009, of deficiencies in his passport application, requesting more information supporting his claim of birth. *Id.* at 7. On June 25, 2010, the Department denied his passport application, because the birth attendant who filed the U.S. birth certificate is suspected of falsifying birth records and Olvera failed to produce any documentation that would have proven he was a U.S. citizen. *Id.* at 1. Thus, the Department concluded that Olvera did not meet the required burden of proving by a preponderance of evidence that he was born in the United States. *Id.* at 1, (citing 22 C.F.R. §§ 54.40–54.41). Olvera filed another passport application on July 15, 2013. *See* 2014 Denial. That application was denied on November 4, 2014, because Olvera did not produce sufficient documentation to prove his citizenship, and the Department found a Mexican birth record for Olvera, further casting doubt on his citizenship claim. *Id.* at 1. Olvera again applied for a passport in May 2019 and was denied on August 12, 2021, for failing to show by a preponderance of the evidence that he was a U.S. citizen. Compl. ¶¶ 13–15.

IV. LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(1)

Federal courts are courts of limited jurisdiction. *Howery v. Allstate Ins. Co.*, 243 F.3d 912, 916 (5th Cir. 2001), *cert. denied*, 534 U.S. 993 (2001). “A case is properly dismissed for lack of subject matter jurisdiction when the court lacks the statutory or constitutional power to adjudicate the case.” *Home Builders Ass’n of Miss., Inc. v. City of Madison, Miss.*, 143 F.3d 1006, 1010 (5th

² Plaintiff erroneously provides that his original passport application was made in May 2019. *See* Compl. ¶ 13

Cir. 1998). A party may move for dismissal based on a lack of subject-matter jurisdiction under Rule 12(b)(1) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 12(b)(1); *see also* Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”). Rule 12(b)(1) challenges to subject-matter jurisdiction come in two forms: “facial” attacks and “factual” attacks. *See Paterson*, 644 at 523. A facial attack consists of a Rule 12(b)(1) motion unaccompanied by supporting evidence that challenges the court’s jurisdiction based solely on the pleadings. *Id.* A factual attack challenges the existence of subject-matter jurisdiction in fact—irrespective of the pleadings—and matters outside the pleadings, such as testimony and affidavits, are considered. *Id.* Defendants lodge a factual challenge here. As such, the Plaintiff must prove that jurisdiction exists. *Menchaca v. Chrysler Credit Corp.*, 611 F.2d 507, 511 (5th Cir. 1980).

V. ARGUMENT

The Court should dismiss Plaintiff’s Complaint for lack of subject-matter jurisdiction because the five-year statute of limitations under 8 U.S.C. § 1503(a) has expired. 8 U.S.C. § 1503(a) provides an adequate remedy for Plaintiff’s claims for relief, and the Declaratory Judgment Act does not confer jurisdiction where there is no jurisdiction over the underlying cause of action.

A. This Court lacks jurisdiction under 8 U.S.C. § 1503(a) because the five-year statute of limitations has run.

While an individual who claims a denial of a right or privilege of U.S. citizenship may seek a declaration of citizenship under 8 U.S.C. § 1503(a), an action under that statute must be instituted within five years after the first, final administrative denial of such right or privilege. *See Gonzalez v. Limon*, 926 F.3d 186, 190 (5th Cir. 2019) (citing 8 U.S.C. § 1503(a)).

Section 1503(a) provides:

If any person who is within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any

department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may institute an action under the provisions of section 2201 of title 28 against the head of such department or independent agency for a judgment declaring him to be a national of the United States.

8 U.S.C. § 1503(a). It also provides that

[a]n action under this subsection may be instituted *only within five years after the final administrative denial of such right or privilege* and shall be filed in the district court of the United States for the district in which such person resides or claims a residence, and jurisdiction over such officials in such cases is conferred upon those courts.

Id. (emphasis added).

In *Gonzalez*, the Fifth Circuit held that the five-year statute of limitations in §1503(a) runs from the first denial of a claim of right or privilege of citizenship. *Gonzalez*, 926 F.3d at 188–190. With this decision, the Fifth Circuit joined the Eleventh Circuit and several district courts in holding that the statute of limitations in § 1503(a) commences upon the first final administrative denial. *See Heuer v. United States Sec’y of State*, 20 F.3d 424, 428 (11th Cir. 1994) (finding that the statute of limitations under § 1503(a) is triggered by the first act of denial of a right or privilege based on a claim of United States nationality); *Henry v. Quarantillo*, 684 F. Supp. 2d 298, 306 (E.D.N.Y. 2010) (finding that “the first ‘final administrative denial’ ... trigger[s] the running of the statute of limitations, not the latest in a series of final denials”); *Icaza v. Shultz*, 656 F. Supp. 819, 823 (D.D.C. 1987) (finding that the statute of limitations was triggered by the first final administrative denial of Plaintiff’s passport application).

Although the plaintiff in *Gonzalez* sought a certificate of citizenship, and the present case concerns a passport application, *Gonzalez*’s reasoning applies to any administrative denial concerning a claim of right or privilege of U.S. nationality, including passport denials. *See Gonzalez*, 926 F.3d 186; *Vasquez v. Pompeo*, 467 F. Supp. 3d 466, 472–473 (S.D. Tex. 2020) (concluding that first passport denial was the first final administrative denial under *Gonzalez*); *see also Icaza*, 656 F. Supp. at 823 (same). In *Vasquez*, the court dismissed a § 1503 claim arising

from a passport denial for lack of subject-matter jurisdiction because five years had passed since the first passport application was denied. *Id.* It did so, even though a second passport application had been denied within the five-year statute of limitations. *Id.* In concluding that the first denial of a passport application was the first final administrative denial under *Gonzalez*, the court reasoned it would be “illogical to commence the running of the limitations period from the time in the latest in a series of passport applications since to do so would render the § 1503(a) limitations period void of meaning.” *Id.*; *see also Garza v. Blinken*, No. 1:21-cv-00160 (S.D. Tex. Mar. 3, 2022) (dismissing § 1503(a) action for lack of subject matter jurisdiction, where Plaintiffs’ passport applications had been denied more than five years before commencement of lawsuit) (attached as Exhibit C).

Plaintiff’s first passport application was denied on June 25, 2010. *See* 2010 Denial at 1. Thus, Plaintiff’s claim under § 1503(a) must be dismissed because Plaintiff did not bring this lawsuit within the five-year statute of limitations, which would have expired in 2015.

Further, equitable tolling cannot apply because the five-year statute of limitations in § 1503(a) is a “jurisdictional requirement.” *Gonzalez*, 926 F.3d at 188; *see also Cardona v. Mayorkas, et al.*, No. 1:20-CV-132, 2021 WL 5242972 (S.D. Tex. May 27, 2021), report and recommendation adopted *sub nom. Cardona v. Mayorkas*, No. 1:20-CV-00132, 2021 WL 4059719 (S.D. Tex. Sept. 7, 2021). When a time bar is jurisdictional, the Court must strictly enforce it, “even if equitable considerations would support extending the prescribed time period.” *U.S. v. Kwai Fun Wong*, 575 U.S. 402, 409 (2015). Ignorance of the law cannot serve as a basis for equitable tolling. *Vasquez*, 467 F. Supp. 3d at 472–473. With no evidence on the record to show that the agency prevented Plaintiff from timely filing his 2010 denial, his claim is precluded under § 1503(a). *Id.*

B. The Declaratory Judgment Act does not independently supply subject-matter

jurisdiction.

Plaintiff seeks relief for his claims under the Declaratory Judgment Act (“DJA”), 28 U.S.C. §§ 2201–2202. *See* Compl. ¶¶ 1, 21 (Prayer for relief ¶ 2). However, the DJA provides only an avenue for declaratory relief with respect to an underlying federal cause of action and cannot supply jurisdiction where it is otherwise lacking. *Lowe v. Ingalls Shipbuilding*, 723 F.2d 1173, 1179 (5th Cir. 1984). The DJA is not an independent cause of action; instead, a claim must be based on an underlying federal cause of action. *See Gaar*, 86 F.3d at 453. As the Fifth Circuit has stated, a “petition for a declaratory judgment concerning federal law is not sufficient to create federal jurisdiction; ‘hence, the relevant cause of action must arise under some other federal law.’” *Id.* (quoting *Lowe v. Ingalls Shipbuilding*, 723 F.2d 1173, 1179 (5th Cir. 1984)); *see also Garza*, No. 1:21-cv-00160 at 2 (dismissing DJA claim because plaintiffs, seeking review of their passport application denials, could not identify independent cause of action).

Accordingly, as the Court lacks jurisdiction over the asserted underlying federal causes of action under 8 U.S.C. § 1503(a), the DJA cannot give rise to subject-matter jurisdiction. In sum, the Court lacks jurisdiction over Plaintiff’s Complaint and both claims therein.

C. The United States is not a proper Defendant.

Even if the Court were to decline to dismiss the Complaint, it should dismiss the United States as a Defendant. The United States of America is not a proper party under 8 U.S.C. § 1503(a). Actions brought under 8 U.S.C. § 1503(a) may only be brought against the head of the department or independent agency which denied that person a right or privilege claimed as a U.S. national. “[J]urisdiction over such officials in such cases is conferred upon” the district court in which such person resides or claims a residence. 8 U.S.C. § 1503(a). As the head of the Department of State, the Secretary of State is the only proper defendant in 8 U.S.C. § 1503(a) cases. Therefore, the United States of America is not a proper party if the sole claim that remains is under 8 U.S.C. § 1503(a).

VI. CONCLUSION

For the foregoing reasons, this Court should dismiss Plaintiff's Complaint and all claims stated therein for lack of jurisdiction under Federal Rule of Civil Procedure 12(b)(1).